



(Hong Kong Office)

ADMINISTRATIVE PANEL DECISION

Case No.	HK-2201611
Complainant:	Lei Chi Technology Co., Ltd.
Respondent:	David Chan
Disputed Domain Name(s):	<jvid1.com>

1. The Parties and Contested Domain Name

The Complainant is Lei Chi Technology Co., Ltd., of 7F., No.146, Zhongshan Rd., Zhongli Dist., Taoyuan City 320, Taiwan (R.O.C.).

The Respondent is David Chan, of Edmonton T6J 2M2, Canada.

The Disputed Domain Name is <jvid1.com>, registered by Respondent with Namecheap, Inc. ("Registrar"), of Phoenix AZ 85034, United States.

2. Procedural History

Complainant submitted a Complaint to the Hong Kong Office of the Asian Domain Name Dispute Resolution Centre ("Centre") electronically on March 29, 2022; the Centre confirmed the receipt of the Complaint on March 30, 2022.

On March 30, 2022, the Centre served an email to the Registrar to confirm the WHOIS information. On the same day, Registrar confirmed by e-mail to the Centre that the Disputed Domain Name was registered with the Registrar and that the current Registrant of the Disputed Domain Name is David Chan. The Registrar has verified that Respondent is bound by its registration agreement which is in English language and has thereby agreed to resolve domain disputes brought by third parties in accordance with ICANN's Uniform Domain Name Dispute Resolution Policy (the "Policy" or "UDRP").

On April 1, 2022, the Centre notified the Complainant with the WHOIS information of the Disputed Domain Name and the Language of Registration Agreement being English and requested the Complainant to revise the complaint. On April 6, 2022, the Complainant submitted the revised complaint in English language to the Centre. On April 7, 2022, the Centre confirmed that the Complaint is in administrative compliance with the Policy and its Rules.

On April 14, 2022, the Centre served the Complaint and all Annexes, including Written Notice of the Complaint, setting a deadline of May 4, 2022 by which Respondent could file a Response to the Complaint, via e-mail.

On May 5, 2022, the Centre confirmed no Response was received within the deadline.

On May 5, 2022, pursuant to Complainant's request to have the dispute decided by a single-member Panel, the Centre serve a panelist appointment notice to Mr. Paddy Tam. On May 5, 2022, having declared no conflict of interests between the parties, Mr. Paddy Tam is appointed as the Panelist. The Panelist shall render a decision on or before May 19, 2022.

3. Factual background

A. Complainant

The Complainant is an online content creator in Taiwan (R.O.C.).

B. Respondent

The Respondent is an individual in Edmonton T6J 2M2, Canada.

4. Parties' Contentions

A. Complainant

The Complainant's contentions may be summarized as follows:

- i. The disputed domain name(s) is/are identical or confusingly similar to a trademark or service mark in which the Complainant has rights:

The Complainant has registered the JVID trademark since 2001 in Taiwan, China, Hong Kong, Japan, South Korea, Singapore, United States and Malaysia with designated goods and services relating to online videos, downloadable videos, prints ...etc. The Complainant holds the primary domain name of <jvid.com>. The Disputed Domain Name incorporates Complainant's JVID mark and most of the videos and photos published on the website are pirated copies of Complainant's productions. By using Complainant's JVID mark and the pirated copies of Complainant's videos without authorization, Respondent has led to confusion to the general customers, contractors and partners which seriously jeopardize the benefit and reputation of Complainant and infringe Complainant's Trademark rights and Copyrights.

- ii. The Respondent has no rights or legitimate interests in respect of the domain name(s):

The complainant did not authorize nor license any third parties including the Respondent to register any trademark or domain name using "JVID". The Respondent has no right to use or register domain relating to "JVID" in any aspect.

- iii. The disputed domain name(s) has/have been registered and is/are being used in bad faith:

Respondent uses Complainant's registered trademark "JVID" and publishes pirated copies on the website, which is obviously taking advantages from Complainant. The Complainant created the "JVID" mark in 2001 which is earlier than Respondent registered the Disputed Domain Name on September 7, 2021. Considering the reputation and quality services, it is clear that the Respondent only wishes to confuse relevant customers to earn benefits by attaching Complainant's reputation.

B. Respondent

The Respondent has not filed an official response within the required 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

To satisfy the first element under Policy ¶ 4(a), a Complainant needs to prove its rights in a trademark and the domain name is identical and/or confusingly similar to the trademark.

First, the Complainant claims rights in the JVID mark through its registrations of the Trademarks in Taiwan, China, Hong Kong, Japan, South Korea, Singapore, United States and Malaysia with designated goods and services relating to online videos, downloadable videos, prints ...etc.,. By virtue of its trademark registrations, Complainant has proved that it has rights in the mark under Para. 4(a) of the Policy. See ADNDRC HK-2101530 <relx.shop> (*"Based on the Complainant's trademark registrations for its RELX and Design trademarks, and in addition to the Complainant's actual use of the "RELX" mark, the Panelist is satisfied that the Complainant has rights to the mark "RELX" for the purpose of Paragraph 4(a)(i) of the Policy"*). Accordingly, the Panel accepts that the Complainant has the registered Trademark rights in the JVID mark.

Second, the Complainant claims that the Disputed Domain Name is confusingly similar to Complainant's JVID trademark. The Panel accepts that the prominent part of the Disputed Domain Name is confusingly similar to Complainant's JVID trademark. In addition, the Panel also finds that the ".com" generic top-level domain ("gTLD") is irrelevant when establishing whether or not a mark is identical or confusingly similar for the purposes of Policy ¶ 4(a)(i). See ADNDRC HK-2201606 <alipanso.com & others> (*"It is well*

established that the top-level generic domain “.com” does not have trademark significance, conferring no distinctiveness to the domain name sufficient to avoid user confusion, and should be ignored for identifying the “confusing similarity” element.”).

For the foregoing reasons, the Panel finds the Complainant has satisfied Para. 4(a)(i) of the Policy.

B) Rights and Legitimate Interests

To satisfy the second element under Para. 4(a) of the Policy, the Complainant must first make a prima facie case that the Respondent lacks rights and legitimate interests in the domain name, and the burden of prove then shifts to the Respondent to show it does have rights or legitimate interests. See ADNDRC HK-2201605 <alifree.net> (*“The burden of proof shifts to the Respondent once the Complainant provides prima facie evidence showing that the Respondent lacks legitimate rights or interests.”*).

Complainant argues that it did not authorize or license any third party including the Respondent to register any trademark or domain name using its JVID trademark. On this basis, the Respondent has no right to use or register the Disputed Domain Name relating to Complainant’s JVID trademark.

The Panel finds that the Complainant has established a prima facie case that the Respondent has no rights or legitimate interests in the disputed domain name and the Respondent has not rebutted the assertion within the required period of time.

For the foregoing reasons, the Panel finds the Complainant has satisfied Para. 4(a)(ii) of the Policy.

C) Bad Faith

To satisfy the third element under Para. 4(a) of the Policy, the Complainant must prove both the registration and use of the domain name is in bad faith.

First, the Complainant argues the Disputed Domain Name was registered later than Complainant’s prior use and registration of the JVID trademark and the Respondent had actual knowledge of Complainant’s JVID trademark at the time of registration of the Disputed Domain Name. Considering the prior trademark registration and the use of the Complainant’s products on the website (which will be discussed in the next paragraph), the Panel agrees with the Complainant and finds that the Respondent has actual knowledge of Complainant’s mark, demonstrating bad faith registration under Para. 4(a)(iii) of the Policy.

Second, the Complainant contends that the Respondent uses the Disputed Domain Name in bad faith due to unauthorized re-distribution of Complainant’s videos and photos on the website resolved by the Disputed Domain Name which also infringed its copyrights. The Respondent has created a likelihood of confusion with Complainant and its trademark by creating a copycat website for commercial gain. The Panel is of the view it is incontestable that the use of the Disputed Domain Name constitutes bad faith due to publishing pirated copies of Complainant’s content as well as creating confusion among the Internet users for commercial gain. See FORUM FA2010001915715 <brazzers-tv.club & brazzers-tv.info> (*“Complainant asserts that Respondent’s resolving website provides illegal, unauthorized*

copies of videos for which consumers pay Complainant and Complainant's corporate affiliates, and thus that Respondent competes with Complainant. These videos also infringe upon Complainant's copyrights and were copied from Complainant's legitimate site. Complainant provides screenshots of Respondent's resolving website and points out the use of its logo, the copied videos, and the pop-up and floater advertisements that appear there. Respondent has not participated in this case and so it does not refute Complainant's evidence or arguments. Upon the evidence presented, the Panel finds that Respondent registered and uses the disputed domain name in bad faith per Policy ¶¶ 4(b)(iii) and (iv).")

For the foregoing reasons, the Panel finds the Complainant has satisfied Para. 4(a)(iii) of the Policy.

6. Decision

Having established all three elements required under the ICANN Policy, the Panel concludes that relief shall be **GRANTED**.

Accordingly, it is Ordered that the Disputed Domain Name **<jvid1.com>** be **TRANSFERRED** to the Complainant.

A handwritten signature in black ink, appearing to read "Paddy Tam", is centered on the page. The signature is written in a cursive, flowing style.

Paddy Tam
Panelist

Dated: May 8, 2022