



Asian Domain Name Dispute Resolution Centre
hong kong

(Hong Kong Office)

ADMINISTRATIVE PANEL DECISION

Case No.	HK-2201667
Complainant:	Television Broadcasts Limited
Respondent:	zhainanfuli / zhai nan
Disputed Domain Name:	< tvb11.com >

1. The Parties and Disputed Domain Name

The Complainant is Television Broadcasts Limited, of Legal and Regulatory Department, 10/F, Main Block, TVB City, 77 Chun Choi Street, Tseung Kwan O Industrial Estate, Kowloon, Hong Kong.

The Respondent is zhainanfuli / zhai nan, of zhai nan, Hai Dian Qu Xi Bei Wang, beijingshi, Jinan, beijingshi province, China.

The domain name at issue is <tvb11.com>, registered by the Respondent with NameSilo, LLC.

2. Procedural History

On 19 September 2022, 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 Centre (ADNDRC) Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (“the Supplemental Rules”), the Complainant submitted a complaint to the Hong Kong Office of the ADNDRC (“the HK office of the Centre”) and elected this case to be dealt with by a sole panelist. On the same day, the HK Office of the Centre notified the Registrar of the Complaint and requested confirmation of the registration information of the disputed domain name. On the same day, the Registrar responded confirming that the Respondent is listed as the Registrant.

On 20 September 2022, the HK Office of the Centre notified the Complainant by email of the deficiencies of the Complaint and asked the Complainant to rectify the deficiencies by 25 September 2022.

On 21 September 2022, the HK Office of the Centre confirmed receipt of the amended complaint and that the complaint is in administrative compliance with the Policy, the Rules and the Supplemental Rules.

On 21 September 2022, the HK Office of the Centre notified the Respondent of the commencement of the proceedings and the deadline for filing a response is 11 October 2022.

On 12 October 2022 the HK Office of the Centre notified the parties that it did not receive a Response from the Respondent in respect of the Complaint.

On 12 October 2022, the HK Office of the Centre sent a Panelist Appointment Invitation to Mr Dennis CAI, and on 13 October 2022, Dennis CAI confirmed his availability to serve as a Panelist for the case and if appointed he can act independently and impartially between the parties.

On 14 October 2022, the HK Office of the Centre notified the parties of the constitution of a single-member panel which comprises Mr Dennis CAI as panelist, and the deadline for a decision is 28 October 2022.

3. Factual Background

For the Complainant

The Complainant is the first wireless commercial television station in Hong Kong established in 1967. It has registered the word “TVB” as a trade mark for telecommunication, broadcasting, entertainment and various services in Hong Kong and other jurisdictions.

The Complainant is the registrant of various domain names that comprises its trademark “TVB” under different Top-Level-Domains (TLDs), including the trademark-rights verified TLD “.商标”.

For the Respondent

The Respondent registered the Disputed Domain Name on 02 March 2019.

4. Parties’ Contention

The Complainant

The Complainant asserts that it has trademark rights in respect of the mark “TVB” and has used it extensively in television broadcasting and other principal activities continuously for over 50 years. The Complainant contends that the mark is a household name that has acquired well-known status in Hong Kong, Mainland China and elsewhere in the world.

The Complainant asserts that the domain name at issue is identical or confusingly similar to the Complainant’s “TVB” mark, as the Disputed Domain Name comprises the Complaint’s mark in its entirety.

The Complainant also alleges that Respondent has no rights or legitimate interests in respect of the domain name mainly for the following reasons:

- Respondent is not in any way connected, associated or affiliated with Complainant;
- The Complainant has never authorized or consented to the registration or use of the disputed domain name;
- There is no evidence that Respondent has been commonly referred to as the disputed domain name, or the Respondent has any legitimate connection with the disputed domain name.
- Respondent has infringed the copyright and other intellectual property rights of Complainant.

The Complainant further contends that the disputed domain name has been registered in bad faith and is being used in bad faith. The Complainant asserts that inconceivable that at the time of registering the disputed domain name Respondent was not aware of Complainant's business and its trademarks. The Complainant believes that the Respondent has registered and is using the disputed domain name for the purpose of intentionally attempting to attract, for commercial gain, Internet users to the website "www.tvb11.com" or other online location by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation or endorsement of that website or location, or in respect of a product or service advertised on that website or location.

The Respondent

The Respondent did not submit a Response in respect of the Complaint within the required period of time.

5. Findings

Paragraph 4(a) of the Policy directs that the Complainant must prove **each of** the following:

- 1) that the domain name registered by the Respondent is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- 2) that the Respondent has no rights or legitimate interests in respect of the domain name; and
- 3) that the domain name has been registered and is being used in bad faith.

A) Identical or Confusing Similarity

The Panel finds that the Complainant has established its registered trademark rights in respect of the name “TVB” by providing the relevant trademark registration information in Hong Kong SAR and other jurisdictions.

The Complainant has also provided evidence that it has been using the mark “TVB” extensively and continuously in its principal business activities for over 50 years. The Panel finds that “TVB” has become an identifier of the Complainant’s services, and the Complainant’s “TVB” mark enjoys very high reputation in Hong Kong and elsewhere in the world.

The fact that Complainant has registered its mark “TVB” as domain names under different TLDs reveals that Complainant’s “TVB” mark has been recognized and used extensively over the Internet. The Panel note that the Complainant has registered its “TVB” mark under trademark-rights verified TLD “.商标”, which confirms that the Complainant’s trademark rights in respect of “TVB” has been verified or endorsed by a third party.

It has been a well-established rule that UDRP panels do not consider the suffix or the top-level-domain part of the disputed domain name when considering the identical or confusing similarity issue under paragraph 4 (a) of the Policy. In the present case and disregarding the “.com” part in the Disputed Domain Name, the Panel finds that the only difference between the disputed domain name and complaint's trademark is “11”. Given the very high reputation and distinctiveness of Complainant’s mark “TVB”, the Panel finds that the inclusion of the number “11” does not reduce the similarity, visually or phonetically, between the Disputed Domain Name and the Complainant’s mark.

On this basis, the Panel finds that the Complainant has established the first element of the UDRP that the Disputed Domain Name is identical or confusingly similar to the Complainant's "TVB" mark.

B) Rights or Legitimate Interests of the Respondent

While the overall burden of proof in UDRP proceedings is borne by the complainant, various UDRP panels have recognized that if a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, in the disputed domain name, then the burden of proof of this element shifts to the respondent to produce relevant evidence demonstrating rights or legitimate interests in the disputed domain name. If the respondent fails to provide such relevant evidence, the complainant is deemed to have satisfied the second element.

Having considered the totality of the evidence in the present case, the Panel accepts that the Complainant has made out a *prima facie* case that the Respondent lacks rights or legitimate interests in respect of the Disputed Domain Name. On the other hand, the Respondent has provided no evidence that it has rights or legitimate interests in the disputed domain name.

C) Bad Faith

Paragraph 4(a) of the Policy requires the Complainant to prove both registration and use in bad faith. Nonetheless, Paragraph 4(b) of the Policy sets out particular scenarios, which shall be evidence of the registration and use of a domain name in bad faith. They are:

- (i) circumstances indicating that [the Respondent has] registered or [the Respondent 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 [the Respondent's] documented out of pocket costs directly related to the domain name; or
- (ii) [the Respondent 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 [the Respondent has] engaged in a pattern of such conduct; or

(iii) [the Respondent has] registered the 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 [the Respondent's] website 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 [the Respondent's] website or location or of a product or service on [the Respondent's] website or location.

The evidence provided by the Complainant indicates that the Complainant's mark "TVB" has become a commercial symbol of the Complainant's goodwill. The evidence provided by the Complaint also indicates that the Respondent is engaged in the television broadcasting business which is the same as the Complainant's products and services.

In the present case, the Panel finds that, due to the high and longstanding reputation of the Complainant's "TVB" mark in Hong Kong, Mainland China, and many other countries around the world, the Respondent must have been fully aware of the Complainant's trademark and its goodwill before registering the Disputed Domain Name. Having found that the Respondent has no rights and legitimate interests in respect of the Disputed Domain Name, the Panel believes that it was not a coincidence for the Respondent to register the Disputed Domain Name, and finds that Respondent's registration and use of the Disputed Domain Name constitute bad faith under paragraph 4b(iv) of the Policy.

6. Decision

For all of the foregoing reasons, this Panel's decision is that the Disputed Domain Name is confusingly similar to the marks in which the Complainant has rights, that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name, and that the Disputed 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 <tvb11.com> be transferred to the Complainant.

A handwritten signature in black ink, reading "Dennis Cai". The signature is fluid and cursive, with the first name "Dennis" and the last name "Cai" clearly distinguishable.

Dennis Cai
Sole Panelist

DATED: 28 October 2022