



Asian Domain Name Dispute Resolution Centre

hongkong

(Hong Kong Office)

ADMINISTRATIVE PANEL DECISION

Case No.	HK-2401880
Complainant:	Television Broadcasts Limited
Respondent:	Muhammad Ahsan
Disputed Domain Name(s):	<tvbanywherena.info>

1. The Parties and Contested Domain Name

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

The Respondent is Muhammad Ahsan, Al barah building flat no 304, 0000 Dubai, United Arab Emirates.

The Domain Name at issue is <tvbanywherena.info>, registered by the Respondent with Namecheap, Inc., 4600 East Washington Street Suite 305, Phoenix, AZ 85034, USA.

2. Procedural History

The Complaint was filed with the Hong Kong Office of the Asian Domain Name Dispute Resolution Centre (the “Centre”) on 5 March 2024 in English language. The Complainant chose to have this case dealt with by a single-member panel. On 5 March 2024, the Centre transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On 12 March 2024, the Registrar transmitted by email to the Centre its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent (Redacted) and contact information in the Complaint. The Centre sent an email communication to the Complainant on 13 March 2024 providing the registrant and contact information disclosed by the Registrar and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amendment to the Complaint on 20 March 2024.

The Centre verified that the Complaint together with the amendment to 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 to the ICANN Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Centre formally notified the Respondent of the Complaint, and the proceedings commenced on 21 March 2024. In accordance with the Rules, paragraph 5, the due date for Response was 10 April 2024. The Respondent did not submit any response. Accordingly, the Centre notified the Respondent's default on 11 April 2024.

The Centre appointed Peter Müller as the sole panellist in this matter on 12 April 2024. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Centre to ensure compliance with the Rules, paragraph 7.

3. Factual background

The Complainant is the first wireless commercial television station in Hong Kong first established in 1967. Today, the Complainant has over 3,800 staff and artists worldwide and is one of the largest producers of Chinese-language programs in the world. Its Chinese-programs are distributed to more than two hundred countries and regions. The Complainant's shares have been publicly listed on the Hong Kong Stock Exchange since 1988.

In 2014, The Complainant's wholly owned subsidiary, TVB Anywhere Limited, launched "TVB Anywhere" for customers to watch the Complainant's programs and channels on television via a set-top box in overseas regions. TVB Anywhere Limited uses the domain name "tvbanywhere.com" in connection with its business.

The Complainant is registered owner of numerous trademarks for TVB, including Hong Kong trademark registration no. 199608823AA TVB, which was registered on 8 June 1992 and enjoys protection for services in classes 35, 38, and 41 (the "TVB Mark"). The Complainant also owns numerous domain names containing its TVB Mark, *inter alia* "tvb.com," which has been used by the Complainant since 1999 in connection with its business activities.

The Domain Name was registered on 22 September 2023 and has been used in connection with a copy of the Complainant's website of "TVBAnywhere North America" (<https://www.tvbanywherena.com/>). The Respondent's website also includes links to malware.

On 14 February 2024, the Complainant sent cease and desist letters to the Respondent and other intermediaries requesting them to remove or disable access to the Complainant's copyrighted works and to terminate their services to the Respondent. No response was received.

4. Parties' Contentions

A. Complainant

With regard to the three elements specified in the Policy, paragraph 4(a), the Complainant contends that each of the three conditions is given in the present case.

- i. The Domain Name is confusingly similar to the well-known TVB Mark as it includes such mark as well as the Complainant's ANYWHERE Mark. Furthermore, the

Domain Name obviously copies the Complainant's domain name "tvbanywherena.com."

- ii. The Complainant alleges that the Respondent has no rights or legitimate interests in the Domain Name. It states that the Respondent is not connected, associated, or affiliated with the Complainant in any way and that the Complainant has not authorized, endorsed, or otherwise permitted the Respondent to register the Domain Name or to use the TVB Mark or any variation thereof. The Complainant further submits that there is no evidence that the Respondent has been commonly referred to as the Domain Name, and that there is no reason why the Respondent could reasonably be said to have any rights or legitimate interests in registering or using the Domain Name. Finally, the Complainant alleges that the Respondent has infringed the Complainant's copyright and other intellectual property rights by offering users to view the Complainant's programs without authorization.
- iii. The Complainant claims that the Domain Name was registered and is being used in bad faith. The Complainant states that the Respondent uses the website title "TVBAnywhere Official Website" and copies the Complainant's website available at <https://www.tvbanywherena.com/>. The Complainant alleges that it is obvious that the Respondent is riding on the reputation of the Complainant and deliberately uses the Domain Name to attract Internet users to the Respondent's website for commercial benefits.

B. Respondent

The Respondent did not reply to the Complainant's contentions.

5. Findings

The Policy, paragraph 4(a), provides 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 the 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 Domain Name is confusingly similar to the TVB Mark as it contains the TVB Mark in its entirety. The TVB Mark is recognizable within the Domain Name. The fact, that the second level of the Domain Name is identical to the second level of a domain name used by the Complainant increases the confusing similarity and the risk that Internet users will be misled into thinking that the Domain Name belongs to the Complainant.

The Panel finds that the Complainant satisfied the requirements of the Policy, paragraph 4(a)(i).

B) Rights and Legitimate Interests

Even though the Policy requires the complainant to prove that the respondent has no rights or legitimate interests in the disputed domain name, it is the consensus view among UDRP panels that a complainant must make only a *prima facie* case to fulfil the requirements of

the Policy, paragraph 4(a)(ii). As a result, once a *prima facie* case is made, the burden of coming forward with evidence of the respondent's rights or legitimate interests in the disputed domain name will then shift to the respondent.

The Complainant has substantiated that the Respondent has no rights or legitimate interests in the Domain Name. The Panel finds that the Complainant has made a *prima facie* case that the Respondent has no rights or legitimate interests in the Domain Name and that the burden of production has been shifted to the Respondent.

The Respondent did not deny these assertions in any way and therefore failed to come forward with any allegations or evidence demonstrating any rights or legitimate interests in the Domain Name.

Based on the evidence before the Panel, the Panel cannot find any rights or legitimate interests of the Respondent either. In particular, the Respondent's use of the Domain Name in connection with a copy of one of the Complainant's websites does not result in any rights or legitimate interests in favour of the Respondent.

Accordingly, the Panel finds that the Complainant has proven that the Respondent has no rights or legitimate interests in respect of the Domain Name under the Policy, paragraphs 4(a)(ii) and 4(c).

C) Bad Faith

The Panel is satisfied that the Respondent registered and used the Domain Name in bad faith.

As to bad faith registration, it is hardly conceivable that the Respondent registered the Domain Name without knowledge of the TVB Mark, as such trademark is very well-established for many years. In addition, the fact that the Respondent copied one of the Complainant's websites and domain names is clear proof that the Respondent registered the Domain Name with full knowledge of the TVB Mark and thus in bad faith under the Policy, paragraph 4(a)(iii).

As to bad faith use, by using the Domain Name in connection with the website mentioned above, the Respondent was, in all likelihood, trying to divert traffic intended for the Complainant's website to its own for commercial gain as set out under the Policy, paragraph 4(b)(iv).

Consequently, the Panel finds that the Respondent registered and is using the Domain Name in bad faith and that the Complainant satisfied the requirements of the Policy, paragraph 4(a)(iii).

6. Decision

For the foregoing reasons, in accordance with the Policy, paragraph 4(i), and the Rules, paragraph 15, the Panel orders that the Domain Name <tvbanywherenana.info> be transferred to the Complainant.

My. Müller

Peter Müller
Panellist

Dated: 25 April 2024