



Asian Domain Name Dispute Resolution Centre

hong kong

**(Hong Kong Office)**

## **ADMINISTRATIVE PANEL DECISION**

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<b>Case No.</b>	HK-2401910
<b>Complainant:</b>	TVB (Hong Kong)
<b>Respondent:</b>	Respondent using PrivacyGuardian.org LLC
<b>Disputed Domain Name(s):</b>	< hktvb123.com >

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### **1. The Parties and Contested Domain Name**

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

The Respondent, whose identity is shielded by a privacy service, is currently listed under PrivacyGuardian.org LLC, with a contact address at 1928 E. Highland Ave. Ste F104, PMB# 255, Phoenix, Arizona, USA, 85016.

The domain name in dispute is <HKTVB123.COM>, registered by the Respondent with NameSilo LLC, located at 390 NE 191st Street STE 8437, Miami, Florida 33179 (USA).

### **2. Procedural History**

On 20 August 2024, the Complainant, Television Broadcasts Limited, filed a Complaint with the Hong Kong Office of the Asian Domain Name Dispute Resolution Centre (“Centre”) pursuant to the Uniform Domain Name Dispute Resolution Policy (“Policy”) adopted by the Internet Corporation for Assigned Names and Numbers (“ICANN”) on 24 October 1999.

On the same day, the Centre transmitted by email to the Registrar, NameSilo LLC, a request for confirmation regarding the registration details of the disputed domain name, <hktvb123.com>, and for the domain name to be locked, preventing its transfer to a third party. On 29 August 2024, the Registrar confirmed that the Respondent, whose identity is shielded by PrivacyGuardian.org LLC, is the current registrant of the disputed domain name and confirmed that the domain name had been locked pending the administrative proceedings.

In accordance with paragraphs 2(a) and 4(a) of the Rules, the Centre formally notified the Respondent of the Complaint, and the proceedings commenced on 30 August 2024. The Panel is satisfied that the Centre employed all reasonably available means to ensure that

the Respondent was made aware of the proceedings, in line with UDRP requirements, including by email communication. Despite these efforts, the Respondent has not submitted a response by the designated deadline of 19 September 2024. Accordingly, the Centre notified the parties of the Respondent's default on 23 September 2024.

On 23 September 2024, the Centre appointed Professor Julien Chaisse as the Panelist for this administrative proceeding. The Panelist has submitted the required Statement of Acceptance and Declaration of Impartiality and Independence, in compliance with Rule 7 of the Rules.

The Panel finds that the Centre has discharged its responsibilities under Rule 2(a) of the Rules, employing all reasonably available means calculated to notify the Respondent of the proceedings. As a result, the Panel is able to render a decision based on the Complaint, the evidence submitted, the Policy, the Rules, the Supplemental Rules, and any principles of applicable law, despite the absence of a response from the Respondent.

In accordance with the timeline set out in paragraph 15 of the Rules, a decision is to be rendered by the Panel on or before 7 October 2024.

### **3. Factual background**

#### **The Complainant**

The Complainant, Television Broadcasts Limited (TVB), established in 1967, is headquartered in Tseung Kwan O Industrial Estate, New Territories, Hong Kong. TVB is a publicly listed company on the Hong Kong Stock Exchange (SEHK: 511) and is recognized as one of the largest Chinese-language television program producers globally (Annex III).

TVB operates multiple television channels, including its flagship Cantonese service, TVB Jade, and English service, TVB Pearl, and provides a wide range of entertainment, news, and educational content. Additionally, TVB has expanded into digital media, offering services such as myTV SUPER, which provides both live streaming and video-on-demand (VOD) content to millions of users. TVB's digital presence is further supported by a global network of websites, including tvb.com, and an extensive portfolio of more than 200 domain names featuring the "TVB" mark (Annex II).

The Complainant holds numerous trademarks in over 30 jurisdictions worldwide, covering various classes of goods and services related to television broadcasting, entertainment, and digital media. The trademarks include registrations in jurisdictions such as Cambodia, the European Union, Indonesia, and Japan, demonstrating its extensive intellectual property rights in the "TVB" mark.

#### **The Respondent**

The identity of the Respondent is shielded by PrivacyGuardian.org LLC, a privacy protection service with a listed address in Phoenix, Arizona, USA. The Respondent registered the disputed domain name, <hktvb123.com>, on 10 February 2024, using the privacy service to conceal their actual identity. The Complainant alleges that the Respondent is unlawfully using the domain name to operate a website that streams TVB's copyrighted programs without authorization.

The Respondent has not responded to the Complainant's cease and desist requests and has no known affiliation with TVB or legitimate rights in the disputed domain name. The Complainant asserts that the Respondent is deliberately attempting to mislead the public by using the "TVB" mark in bad faith, capitalizing on TVB's global reputation and infringing on its intellectual property rights.

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

##### **A. Complainant**

The Complainant's contentions may be summarized as follows:

- i. The Complainant, Television Broadcasts Limited, contends that it has established substantial goodwill and reputation in the "TVB" trademark, which is registered in multiple jurisdictions worldwide, including Hong Kong, China, and several other key markets. The disputed domain name, <hk tvb123.com>, is confusingly similar to the "TVB" mark and is likely to mislead users into believing that the domain is associated with or endorsed by TVB.
- ii. The Complainant asserts that the Respondent has no rights or legitimate interests in the disputed domain name. The Respondent is not affiliated with TVB, nor has TVB authorized the use of its well-known trademarks. There is no evidence suggesting that the Respondent has been commonly known by the disputed domain name or that it is engaged in any legitimate business related to TVB.
- iii. The Complainant claims that the Respondent is using the disputed domain name in bad faith. Specifically, the Respondent has been using the domain name to operate a website that illegally streams TVB's copyrighted programs, thereby infringing upon the Complainant's intellectual property rights. Such actions demonstrate that the Respondent is intentionally attempting to exploit TVB's reputation for commercial gain without authorization.
- iv. The Complainant argues that the Respondent's registration of the domain name was intended to disrupt TVB's business and attract Internet traffic to its infringing website by creating a false association with TVB. The Respondent's conduct is clearly aimed at diverting users for commercial purposes, taking unfair advantage of TVB's established brand.
- v. The Complainant further contends that the use of a privacy service by the Respondent to conceal its identity is another indicator of bad faith, as it suggests that the Respondent intended to hide its activities and avoid accountability for its infringing actions.

##### **B. Respondent**

The Respondent's contentions may be summarized as follows:

- i. The Respondent has not filed a response to the Complaint.

ii. The Respondent has made use of a privacy protection service, PrivacyGuardian.org LLC, to shield their identity. The Panel notes that while the use of privacy services is not inherently improper, it can, in some cases, indicate an intent to conceal bad faith registration or use of the domain name. The Respondent's choice not to respond and to obscure their identity in these proceedings further supports an inference of bad faith under UDRP precedent.

iii. As such, no contentions have been submitted on behalf of the Respondent.

## 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 Complainant has demonstrated that it holds registered trademarks for "TVB," which is internationally recognized, particularly in connection with television broadcasting and entertainment services. The disputed domain name, <hktvb123.com>, incorporates the "TVB" mark in its entirety. The only modifications are the addition of "HK," which refers to Hong Kong, and the numbers "123." These minor additions do not detract from the confusing similarity between the domain name and the Complainant's mark. On the contrary, they are likely to increase the likelihood of confusion by suggesting a geographic connection to Hong Kong, where the Complainant is headquartered.

In assessing confusing similarity under UDRP principles, the focus is not on whether the domain name is identical but whether the domain name contains elements that are confusingly similar to the Complainant's mark. As noted in the decision *Arthur Guinness Son & Co. v. Dejan Macesic* (WIPO Case No. D2000-1698), the addition of non-distinctive elements such as geographic terms or numbers does not negate the confusing similarity between a well-known trademark and the disputed domain name. Similarly, in *Ansell Healthcare Products Inc. v. Australian Therapeutics Supplies Pty, Ltd.* (WIPO Case No. D2001-0110), the inclusion of descriptive terms was found insufficient to differentiate the domain from the established trademark.

Furthermore, this Panel highlights the relevance of initial interest confusion in cases such as this. It is well-established under UDRP precedent that initial interest confusion occurs when a consumer is drawn to a domain based on the assumption that it is associated with a particular brand, even if they later realize that the site is unrelated. As discussed in *AT&T Corp. v. Amjad Kausar* (WIPO Case No. D2003-0327), such confusion can divert traffic and exploit the goodwill of the trademark holder, even if no commercial transaction occurs. In the present case, users encountering <hktvb123.com> are likely to believe, at least initially, that the domain is affiliated with or endorsed by TVB. This confusion is particularly harmful, as it takes advantage of the well-established goodwill associated with the "TVB" mark to divert users to an unauthorized site.

The Panel concludes that the disputed domain name is confusingly similar to the Complainant's "TVB" trademark, and the first element of Paragraph 4(a) of the Policy is therefore satisfied.

### **B) Rights and Legitimate Interests**

The Complainant has demonstrated that it has not authorized the Respondent to use its trademarks, nor is there any evidence that the Respondent has been commonly known by the disputed domain name. The burden of proof shifted to the Respondent once the Complainant made a prima facie case under Paragraph 4(a)(ii). Yet, the Respondent has failed to file any response or present evidence that could establish any rights or legitimate interests in the domain name.

The Respondent has also chosen to shield its identity through the use of PrivacyGuardian.org, a privacy protection service. While such services are legitimate tools for protecting registrants' personal information, their use in cases involving clear evidence of cybersquatting and intellectual property infringement should raise concerns. Here, the Respondent's decision to conceal its identity must be viewed as an indicator of bad faith in conjunction with the infringing use of the domain name.

In cases like *Redfig LLC v. Bill Patterson / Reserved Media LLC* (Forum Case No. FA2310002065116), it has been established that when a Respondent fails to assert legitimate interests, hides behind privacy services, and engages in infringing activity, the absence of transparency further supports the conclusion that the Respondent has no legitimate rights or interests in the domain. Therefore, the combination of anonymity and infringement amplifies the Complainant's prima facie case.

The use of a privacy service in this case does not provide the Respondent with any additional rights or legitimate interests in the domain name. Instead, it serves to strengthen the argument that the Respondent has deliberately attempted to avoid accountability for its infringing activities, supporting the Complainant's contentions. The Panel is unequivocal in its conclusion that the Respondent has no rights or legitimate interests in the disputed domain name. Therefore, the second element of the Policy is satisfied.

### **C) Bad Faith**

To satisfy the requirement of bad faith under Paragraph 4(a)(iii) of the Policy, the Complainant must demonstrate that the domain name was both registered and is being used in bad faith. The Panel finds that the Respondent's conduct, including the registration of the domain name, <hktvb123.com>, and its subsequent use to stream the Complainant's copyrighted programs without authorization, constitutes clear bad faith behavior.

The use of PrivacyGuardian.org to shield the Respondent's identity, while not inherently indicative of bad faith, is an important factor when considered alongside the Respondent's failure to respond and its clear infringing activities. As established in *Telstra Corporation Limited v. Nuclear Marshmallows* (WIPO Case No. D2000-0003), even passive holding of a domain name can be evidence of bad faith under UDRP standards. However, in this case, the Respondent's active misuse of the domain name to mislead consumers and profit from the Complainant's well-known trademark exacerbates the bad faith finding.

In *Jahnke v. Vidya Narayanan* (WIPO Case No. D2017-2236), the Panel noted that while privacy services are legitimate tools for protecting registrants' information, they are often used by cybersquatters to obscure their identities and avoid accountability. The Panel in that case highlighted that when a Respondent uses such services in conjunction with clearly infringing behavior, it strongly suggests bad faith registration and use. Similarly, the Respondent in the present case used PrivacyGuardian.org to conceal its identity while simultaneously engaging in activities that exploit the Complainant's trademark for commercial gain. This combination of factors (concealment, non-response, and infringement) leads the Panel to conclude that the Respondent acted in bad faith.

Moreover, the use of the domain name to stream copyrighted content without authorization further solidifies the bad faith finding, as it disrupts the Complainant's business and diverts traffic under false pretenses. In *Redfig LLC v. Bill Patterson / Reserved Media LLC* (Forum Case No. FA2310002065116), the Panel similarly found that the use of a privacy service to hide the identity of a respondent, coupled with infringing use of a well-known mark, constituted bad faith. Here, the Respondent's actions mirror those of established cybersquatting patterns.

This case further demonstrates that bad faith under UDRP can be compounded when a domain name is used not only to infringe trademarks but also to engage in other unlawful activities, such as unauthorized streaming of copyrighted content. The combination of these factors (unauthorized trademark use, infringement of copyright, non-response, and concealment of identity) points to an unequivocal finding of bad faith under Paragraph 4(a)(iii) of the Policy.

## 6. Decision

For the reasons set forth above, the Panel concludes that:

- The disputed domain name, <hktvb123.com>, is confusingly similar to the Complainant's trademark "TVB."
- The Respondent has no rights or legitimate interests in respect of the domain name.
- The domain name has been registered and is being used in bad faith by the Respondent.

Accordingly, pursuant to Paragraph 4(i) of the Policy and Paragraph 15 of the Rules, the Panel orders that the disputed domain name, <hktvb123.com>, be transferred to the Complainant.



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Professor Julien Chaisse  
Panelist

Dated: September 29, 2024