



Asian Domain Name Dispute Resolution Centre

hongkong

(Hong Kong Office)

ADMINISTRATIVE PANEL DECISION

Case No.	HK-2401923
Complainant:	TikTok Ltd
Respondent:	REDACTED FOR PRIVACY/ PrivacyGuardian.org llc
Disputed Domain Name(s):	<tiktok18.link>

1. The Parties and Contested Domain Name

The Complainant is TikTok Ltd, of Grand Pavilion, Hibiscus Way, 802 West Bay Road, Grand Cayman, KY1 – 1205, Cayman Islands. The authorized representative is Paddy Tam, CSC Digital Brand Services Group AB, Sveavägen 9, 10th floor, 111 57 Stockholm, Sweden. Tel No: +852 2345 7555. Email: udrp@cscglobal.com.

The Respondent is REDACTED FOR PRIVACY/ PrivacyGuardian.org llc, of 1928 E. Highland Ave. Ste F104 PMB# 255, Phoenix AZ 85016. Tel No: +1.3478717726. Email: pw-63549b639025ec37ae5a3223661cca30@privacyguardian.org.

The domain name at issue is <tiktok18.link>, registered by Respondent with NameSilo, LLC, of 1300 E. Missouri Ave. Suite A-110, Phoenix AZ 85014, United States.

2. Procedural History

On 10 September 2024, the Complainant filed a complaint with the Hong Kong Office of the Asian Domain Name Dispute Resolution Centre (“the Centre”).

On 11 September 2024, the Centre, by way of email, issued a New Case Notification to the Registrar, NameSilo, LLC (“the Registrar”) and request the Registrar to provide necessary information in relation to the Disputed Domain Name.

On 11 September 2024, the Registrar confirmed, by way of email, that: 1. The domain name is registered with the Registrar; 2. The respondent, REDACTED FOR PRIVACY/ PrivacyGuardian.org llc, is the registrant of the domain name(s); 3. The Uniform Domain Name Dispute Resolution Policy applies to the domain name(s); 4. The Whois information of the Disputed Domain Name is as follows:- Holder: REDACTED FOR PRIVACY/ PrivacyGuardian.org llc Telephone number: +1.3478717726 Email address: pw-63549b639025ec37ae5a3223661cca30@privacyguardian.org Address: 1928 E. Highland Ave. Ste F104 PMB# 255, Phoenix AZ 85016. The Disputed Domain Name has been locked.

On 16 September 2024, the Centre, by way of email, transmitted the Notification of Deficiencies to the Complainant.

On 17 September 2024, the Complainant, by way of email, transmitted the revised Complaint to the Centre.

On 19 September 2024, the Centre verified that the Complaint is in administrative compliance with the Uniform Domain Name Dispute Resolution Policy ("Policy") and the Rules for ICANN Uniform Domain Name Dispute Resolution Policy ("Rules").

On the same day, the Centre provided the Respondent with a Written Notice of Complaint via email, which included the Complaint and accompanying annexures. The notice indicated that the proceedings commenced on 19 September 2024, and specified that the Respondent's Response was due by 9 October 2024.

On 10 October 2024, the Centre, by way of email, notified the parties that no response was filed by the Respondent within the required period of time.

On 14 October 2024, the Centre, by way of email, appointed Dr. Timothy Sze as the sole panelist for this case. The Panel finds that it was properly constituted. The Panel has submitted the acceptance notice as well as a statement of impartiality and independence.

On 14 October 2024, the Centre, by way of email, confirmed that Dr. Timothy Sze be appointed as the panelist and the panelist shall render his decision by 28 October 2024.

3. Factual background

For the Complainant

TikTok Ltd. ("Complainant" or "TikTok"), with its affiliate TikTok Information Technologies UK Limited is the owner of trademark registrations for TIK TOK/TIKTOK (hereinafter referred to as "TIKTOK") across various jurisdictions. Attached hereto as Annex 1 are printouts from United States Patent and Trademark Office ("USPTO"), United Kingdom Intellectual Property Office ("UKIPO"), European Union Intellectual Property Office ("EUIPO"), and World Intellectual Property Organization ("WIPO") for these registrations, which demonstrate that the Complainant has spent a considerable amount of time and money protecting its intellectual property rights. These registrations are referred to hereafter as the "Complainant's trademarks." The trademarks relevant to this instant matter are:

TRADEMARK	JURISDICTION/ TM OFFICE	REGISTRATION NUMBER	REGISTRATION DATE	CLASSES
TIK TOK	US / USPTO	5653614	Jan. 15, 2019	9, 38, 41, 42
TIKTOK (stylized) TikTok	US / USPTO	5974902	Feb. 04, 2020	9, 38, 41, 42
TIKTOK	US / USPTO	5981212	Feb. 11, 2020	9, 38, 41, 42
TIKTOK (stylized) TikTok	US / USPTO	5981213	Feb. 11, 2020	9, 38, 41, 42
TIKTOK (stylized)	US / USPTO	6847032	Sep. 13, 2022	35

TikTok				
TIKTOK	US / USPTO	6069518	June 2, 2020	45
TIK TOK	UK / UKIPO	00917891401	Nov. 29, 2018	9, 38, 41
TIK TOK	EU / EUIPO	017913208	Oct. 20, 2018	9, 25, 35, 42, 45
TIK TOK	WO / WIPO	1485318	Mar. 19, 2019	9, 25, 35, 38, 41, 42, 45

TikTok is an internet technology company that enables users to discover a world of creative content platforms powered by leading technology. See Annex 6.1. It was launched in September 2016 and became the most downloaded application in the US in October 2018. TikTok reached over a billion users worldwide in September 2021 and currently has over 1 billion active monthly users globally as of March 2024. See Annex 6.2.

TikTok enables users to create and upload short videos. TikTok offers features such as background music and augmented reality effects, and users control which features to pair with the content of their self-directed videos. TikTok serves as a host for the content created by its users. Its services are available in more than 150 different markets, in 75 languages, and has become the leading destination for short-form mobile video. TikTok has global headquarters in Los Angeles and Singapore, and its offices include New York, London, Dublin, Paris, Berlin, Dubai, Jakarta, Seoul, and Tokyo. See Annex 6.1 - 6.2.

In 2022, TikTok was the #1 most downloaded application in the US and globally, with 672 million downloads in the US and 3.5 billion downloads globally. See Annex 6.2. Since its launch in the Google Play Store, more than 1 billion users have downloaded the TikTok app. See Annex 7.1. In the Apple App Store, the TikTok app is ranked “#1 in Entertainment” and #1 among all categories of free iPad apps. It is also one of Apple’s featured “Editors’ Choice” apps. See Annex 7.2.

Complainant also has a large internet presence through its primary website <tiktok.com>. See Annexes 4, 5. According to the third-party web analytics website SimilarWeb.com, <tiktok.com> had a total of 2.3 billion million visitors in July of 2024, making it the 14th most popular website globally. See Annex 8.

Complainant’s TIKTOK brand is well recognized and famous worldwide and in their industry. Complainant has made significant investment to advertise and promote the Complainant’s trademark worldwide in media and the internet over the years. As a result of Complainant’s considerable investment of time, energy and resources in the advertising and promotion of its services under the TIKTOK mark, TIKTOK has become well known to the public and trade as identifying and distinguishing Complainant exclusively and uniquely as the source of the high services to which the TIKTOK mark is applied.

For the Respondent

The Respondent registered the Disputed Domain Name on 5 July 2023.

4. Parties’ Contentions

A. Complainant

The Complainant's contentions may be summarized as follows:

i) The disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights:

By virtue of its trademark and service mark registrations as shown in Annex 1, Complainant is the owner of TIK TOK trademark. See *WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Jurisprudential Overview 3.0")* at 1.2.1 ("Where the complainant holds a nationally or regionally registered trademark or service mark, this prima facie satisfies the threshold requirement of having trademark rights for purposes of standing to file a UDRP case.").

In addition, a Complainant is not required to register its marks within the country of the respondent in order to protect its rights in those marks. See *WIPO Jurisprudential Overview 3.0 at 1.1.2* "Noting in particular the global nature of the Internet and Domain Name System, the jurisdiction(s) where the trademark is valid is not considered relevant to panel assessment under the first element".

It is standard practice when comparing a Disputed Domain Name to Complainant's trademark, to not take the extension into account. See *WIPO Jurisprudential Overview 3.0 at 1.11.1* ("The applicable Top Level Domain ("TLD") in a domain name (e.g., ".com", ".club", ".nyc") is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test.").

The Disputed Domain Name can be considered as capturing, in its entirety, Complainant's TIKTOK trademark and simply adding the generic number "18" to the end of the trademark. The mere addition of this generic number to Complainant's trademark does not negate the confusing similarity between the Disputed Domain Name and the Complainant's trademark under Policy ¶ 4(a)(i), and the Disputed Domain Name must be considered confusingly similar to Complainant's trademark. It is well established that the addition of generic or descriptive terms is not sufficient to overcome a finding of confusing similarity pursuant to Policy ¶ 4(a)(i). See *WIPO Jurisprudential Overview 3.0 at 1.8* ("Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element.").

Additionally, Respondent's use of the Disputed Domain Name contributes to the confusion. Respondent is using the Disputed Domain Name to host a website that claims to be affiliated with the Complainant by brandishing the Complainant's distinctive logo and trademark, in connection with the promotion of an unauthorized app called "TikTok18+". This suggests that Respondent intended the Disputed Domain Name to be confusingly similar to Complainant's trademark as a means of furthering consumer confusion. Although the content is usually disregarded under the first element of the UDRP, Panels have "taken note of the content of the website associated with a domain name to confirm confusing similarity where it appears prima facie that the respondent seeks to target a trademark through the disputed domain name" See *WIPO Jurisprudential Overview 3.0 at 1.15*. As a result, Respondent's use of the Disputed Domain Name to resolve to a website that uses Complainant's official logo in connection with the promotion of an unauthorized app is further evidence that the Disputed Domain Name is confusingly similar to Complainant's trademark. See Annex 3.

In light of the aforementioned submissions, the Complainant requests that the Panel concurs and classifies the Disputed Domain Name as confusingly similar to the Complainant's mark for the purpose of Paragraph 4(a)(i).

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

The granting of registrations by the USPTO, UKIPO, EUIPO, and WIPO to Complainant for the TIKTOK trademark is prima facie evidence of the validity of the term "TIKTOK" as a trademark, of Complainant's ownership of this trademark, and of Complainant's exclusive right to use the TIKTOK trademark in commerce on or in connection with the goods and/or services specified in the registration certificates. See Annex 1.

Respondent is not sponsored by or affiliated with Complainant in any way. Furthermore, Complainant has not given Respondent permission, authorization or license to use Complainant's trademark in any manner, including in domain names. "In the absence of any license or permission from the Complainant to use its trademark, no actual or contemplated bona fide or legitimate use of the Disputed Domain Name could reasonably be claimed." See *Sportswear Company S.P.A. v. Tang Hong*, D2014-1875 (WIPO Dec. 10, 2014).

In the instant case, the pertinent Whois information identifies the Registrant as "REDACTED FOR PRIVACY/ PrivacyGuardian.org llc", which does not resemble the Disputed Domain Name in any manner. See Annex 2. Thus, where no evidence that suggests that Respondent is commonly known by the Disputed Domain Name, then Respondent cannot be regarded as having acquired rights to or legitimate interests in the Disputed Domain Name within the meaning of ¶ 4(c)(ii). See *Moncler S.p.A. v. Bestinfo*, D2004-1049 (WIPO, Feb. 8, 2005) (in which the panel noted "that the Respondent's name is "Bestinfo" and that it can therefore not be "commonly known by the Domain Name" [moncler.com]).

Furthermore, at the time of filing the complaint, Respondent was using a privacy WHOIS service, which past panels have also found to equate to a lack of legitimate interest. See I. See Annex 2.

Respondent is not making a *bona fide* offering of goods or services or legitimate, noncommercial fair use of the Disputed Domain Name. Respondent's inclusion of the Complainant's logo on the Disputed Domain Name's website is a direct effort to take advantage of the fame and goodwill that Complainant has built in its brand, and Respondent is not only using the confusingly similar Disputed Domain Name but is also imitating Complainant by displaying the Complainant's logo (Annex 3). This imitation is referred to as "passing off," and "Respondent, in [also] using [a] confusingly similar domain name to mislead Complainant's customers, is not making a bona fide offering of goods and services pursuant to Policy ¶4(c)(i) or a legitimate noncommercial or fair use of the domain name pursuant to Policy ¶4(c)(iii)." See *Houghton Mifflin Co. v. Weatherman, Inc.*, D2001-0211 (WIPO Apr. 25, 2001) (no *bona fide* offering where website's use of Complainant's logo...suggested that website was the official Curious George website).

¹ *Jackson National Life Insurance Company v. Private Whois www.jacksonnationallife.com N4892*, D2011-1855 (WIPO Dec. 23, 2011) ("The Panel concludes that the Respondent possesses no entitlement to use the name or the words in the Complainant's marks and infers [...] from the "Private Whois" registration that it is not known by such name. There is no evidence of the Respondent ever being commonly known by the name or words now included in the disputed domain name.")

The composition of the Disputed Domain Name invites visitors to download an application; such use has the characteristics of malware. As such, Respondent likely uses the Disputed Domain Name to spread malware or viruses to internet users visiting the website by inviting them to download software under the pretense that this is provided by the Complainant themselves. Such evinces Respondent's lack of rights or legitimate interests in the Disputed Domain Name. It has been well established by past Panels that use of a disputed domain name to spread malware or viruses to internet users is not a legitimate use of a domain name. Thus, this use of the Disputed Domain Name, with devious, nefarious motives, clearly fails to constitute a bona fide offering of goods or services pursuant to Policy ¶4(c)(i) or a legitimate noncommercial or fair use pursuant to Policy ¶4(c)(iii). See *WIPO Jurisprudential Overview 3.0 at 2.13*.

Further, the Disputed Domain Name is directing internet users to a mobile application which is promoted as featuring adult content. Numerous past Panels have held that use of a disputed domain name that is confusingly similar to a complainant's trademarks to link to a website featuring pornographic or adult content evinces a lack of legitimate rights or interests. See *MatchNet plc v. MAC Trading*, D2000-0205 (WIPO May 11, 2000) (finding that it is not a *bona fide* offering of goods or services to use a domain name for commercial gain by attracting Internet users to third party sites offering sexually explicit and pornographic material, where such use is calculated to mislead consumers and tarnish the Complainant's mark). See 2. Moreover, such use also contravenes TikTok's Terms of Service, para. 5, which specifically prohibits "any material which is defamatory of any person, obscene, offensive, pornographic, hateful or inflammatory". See Annexes 3 and 9.

Respondent registered the Disputed Domain Name on July 5, 2023, which is significantly after Complainant filed for registration of its TIKTOK trademark with USPTO, UKIPO, EUIPO, and WIPO, and significantly after Complainant's first use in commerce of its trademark in 2016. The Disputed Domain Name's registration date is also after the Complainant obtained its <tiktok.com> domain name in May 2018. See Annexes 1, 2, and 4. Therefore, it is evident that the Disputed Domain Name carries a high risk of implied affiliation with Complainant which cannot be considered a fair use of the Disputed Domain Name (see *WIPO Overview 3.0, section 2.5.1*).

For the reasons set out above, it is clear from the Respondent's use of the Disputed Domain Name that the sole intention is to mislead internet users as to its affiliation with the Complainant and to trade off the Complainant's rights and reputation by appearing to offer services in connection to the Complainant. Nothing on the website hosted on the Domain Name indicates to online users that the Disputed Domain Name is not affiliated with the Complainant. Therefore, the Complainant submits that the Respondent has no rights or legitimate interests in the Disputed Domain Name.

iii) The disputed domain name has been registered and is being used in bad faith:

The Complainant and its TIK TOK trademark are known internationally, with trademark registrations across numerous countries. The Complainant has marketed and sold its goods and services using this trademark since 2016, which is well before Respondent's registration of the Disputed Domain Name on July 5, 2023.

² *Bayerische Motoren Werke AG v. Whois Agent, Whois Privacy Protection Service, Inc. / Jaroslav Matula*, D2016-1526 (WIPO Sept. 5, 2016). (The Panel also takes into account that the Respondent's registration and use of the disputed domain name for adult/pornographic content does not constitute a bona fide offering of goods or services or a legitimate noncommercial or fair use of the disputed domain name.)

By registering a domain name that incorporate Complainant's TIKTOK trademark in its entirety, and simply adding the number "18" to the end of the trademark, Respondent has created a domain name that is confusingly similar to Complainant's trademark, as well as its <tiktok.com> domain name. As such, Respondent has demonstrated a knowledge of and familiarity with Complainant's brand and business.

It has been accepted in past decisions that the selection of a domain name so obviously connected to a Complainant's mark, that use by someone with no affiliation with the Complainant, strongly suggests 'opportunistic bad faith' (see *Singapore Airlines Ltd v. European Travel Network*, WIPO Case No D2000-0641) and *Wikimedia Foundation Inc. v. Kevo Ouz a/k/a Online Marketing Realty*, WIPO Case No. D2009-0798, where the Panel also highlighted the fact that the Complainant's mark predated the Respondent's registration of the domain name, which is also true in the current case. Moreover, the Respondent's use of the Disputed Domain Name further indicates their knowledge and intention in regard to the Complainant's brand (Annex 3). This view has been highlighted in previous cases. See 3.

In light of the facts set forth within this Complaint, it is "not possible to conceive of a plausible situation in which the Respondent would have been unaware of" the Complainant's brands at the time the Disputed Domain Name was registered. Stated differently, TIKTOK is so closely linked and associated with Complainant that Respondent's use of this mark, or any minor variation of it, strongly implies bad faith – where a domain name is "so obviously connected with such a well-known name and products,...its very use by someone with no connection with the products suggests opportunistic bad faith." See *Sportswear Company S.P.A. v. Tang Hong*, D2014-1875 (WIPO Dec. 10, 2014). Further, where the Disputed Domain Name comprises the Complainant's trademark in its entirety in conjunction with an unrelated term, "it defies common sense to believe that Respondent coincidentally selected the precise domain without any knowledge of Complainant and its trademarks." See *Asian World of Martial Arts Inc. v. Texas International Property Associates*, D2007-1415 (WIPO Dec. 10, 2007).

ICANN policy dictates that bad faith can be established by evidence that demonstrates that "by using the domain name, [Respondent has] intentionally attempted to attract, for commercial gain, Internet users to [Respondent's] web site..., by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your web site or location or of a product or service on [Respondent's] web site or location." See Policy ¶ 4(b)(iv). Here, Respondent creates a likelihood of confusion with Complainant and its trademarks by claiming to offer services in connection with the Complainant's own service. The content on the Disputed Domain Name refers directly to the Complainant's TIKTOK brand throughout, and displays the Complainant's logo, clearly intending to mimic the look and feel of the Complainant's brand. Through this created affiliation with the Complainant, the Respondent seeks unsuspecting internet users to engage with the content on the website. Such use falls squarely under Paragraph 4(b)(iv). The above-mentioned use "would invariably result in misleading diversion and taking unfair advantage of the Complainant's rights" and amounts to bad faith use for the purposes of the Policy; see *E. Remy Martin & C v. Christopher MacNaughton*, D2018-2106 (WIPO. Oct. 31, 2018). As such, Respondent is attempting to cause consumer confusion in a nefarious attempt to profit from such confusion. The impression given by the Disputed Domain Name and its website would cause consumers to believe the Respondent is somehow associated with Complainant when, in fact, it is not. Respondent's actions create a

³ *BKS Bank AG v. WhoisGuard Protected, WhoisGuard, Inc. / Mikell Karo*, WIPO Case No. D2020-0575 where the Panel noted, "The content of the website clearly shows that the Respondent was well aware of the Complainant's activities and trademarks and intended opportunistically to benefit on the goodwill of the Complainant's trademarks and to profit from consumer confusion, and to obtain sensitive and valuable data in bad faith."

likelihood of confusion as to the source, sponsorship, affiliation, or endorsement of the Disputed Domain Name, and the Respondent is thus using the fame of the Complainant's trademarks to improperly increase traffic to the website listed at the Disputed Domain Name for Respondent's own commercial gain. It is well established that such conduct constitutes bad faith. See 4 . See Annex 3.

Further, the Respondent's use of the Disputed Domain Name constitutes a disruption of Complainant's business and qualifies as bad faith registration and use under Policy ¶4(b)(iii) because Respondent's domain name is confusingly similar to Complainant's trademarks and the website at the Disputed Domain Name is being used to offer services in connection to the Complainant without Complainant's authorization or approval (Annex 3). Past Panels have confirmed that using a confusingly similar domain to mislead consumers and then offering a complainant's goods or services is evidence of bad faith registration and use. See 5.

As mentioned above, the website of the Disputed Domain Name offers an application that promotes sexually-explicit, pornographic content, which provides evidence of Respondent's bad faith registration and use of this domain. Past Panels have consistently held that a respondent's use of a confusingly similar domain name to direct unsuspecting internet users to adult content, as here, is evidence of bad faith registration and use of that domain name. See *Microsoft Corp. v. Horner*, D2002-0029 (WIPO Feb. 27, 2002) (holding respondent's use of complainant's mark to post adult-oriented photographs and publish links to additional adult-oriented websites evidenced bad faith use and registration). See Annex 3.

Complainant submits that although pornographic content is not prohibited, condemnation is directed at respondents that divert Internet users to such websites by fostering a belief that the domain name belongs to, is associated with or connected to the Complainant. The same view was accepted in *Sound Unseen, Ltd.; Apple Bottoms, LLC; and Cornell Haynes p/k/a "Nelly" v. Patrick Vanderhorst*, D2005-0636 (WIPO Aug. 18, 2005), with the Panel noting "bad faith under the Policy may very well arise where a domain name, which infringes on the mark of another by virtue of being identical or confusingly similar to that mark, is used by a respondent as an instrumentality to intentionally link and direct unsuspecting users, who seek information on a good or service associated with that mark, to a pornographic site instead. In such instances, those users would not be exposed to a respondent's pornographic content but for that linkage". The Complainant, therefore, submits that the Respondent's use of the Disputed Domain Name in this manner amounts to "porno-squatting". This is a practice where confusion with a well-known trademark is used to divert unsuspecting internet users to a pornographic website for commercial purposes.

The Disputed Domain Name can only be taken as intending to cause confusion among internet users as to the source of the Disputed Domain Name, and thus, the Disputed Domain Name must be considered as having been registered and used in bad faith pursuant to Policy ¶ 4(b)(iv), with no good faith use possible. More specifically, where the Disputed Domain Name incorporates the Complainant's TIKTOK trademark in its entirety and is used to host a website that blatantly

⁴ *TIKTok Ltd. v. Shoeb Alam, and Shariyat Malik*, D2023-2185 (WIPO, Jul. 20, 2023) ("both the registration and use of the disputed domain names in bad faith can be found in view of the reproduction of the Complainant's trademark in connection with the offer of "a new app for our adult users" and a "simply modified version of the official TikTok app" and the Respondents' intentional attempt to attract, for commercial gain, Internet users to their websites, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the website or of a service on the website").

⁵ *Philipp Plein v. Domain Admin, Whois Privacy Corp.*, D2016-1519 (WIPO Sept. 12, 2016) (Respondent acted in bad faith by registering the disputed domain name to disrupt the Complainant's relationship with their customers or potential customers and/or to attempt to attract Internet users for commercial gain. Respondent purported to sell Philipp Plein products, without Complainant's authorization, from the website to which the disputed domain name resolves.)

claims to be affiliated with or connected to the complainant, there is no plausible good-faith reason or logic for Respondent to have registered the Disputed Domain Name. “The only feasible explanation for Respondent’s registration of the disputed domain name is that Respondent intends to cause confusion, mistake and deception by means of the disputed domain name. Accordingly, any use of the disputed domain name could only be in bad faith.” See *OLX, B.V. Kumud, G. / Whois Agent, Whois Privacy Protection Service, Inc.*, D2015-0218 (WIPO Mar. 30, 2015).

Finally, on balance of the facts set forth above, it is more likely than not that the Respondent knew of and targeted Complainant’s trademark, and Respondent should be found to have registered and used the Disputed Domain Name in bad faith. See *Tudor Games, Inc. v. Domain Hostmaster, Customer ID No. 09382953107339 dba Whois Privacy Services Pty Ltd / Domain Administrator, Vertical Axis Inc.*, D2014-1754 (WIPO Jan 12, 2014) (“the Panel makes its finding regarding bad faith registration by asking whether it is more likely than not from the record of the evidence in the proceeding that Respondent had the ELECTRIC FOOTBALL trademark in mind when registering the Domain Name.”).

B. Respondent

The Respondent’s did not file a response in accordance with Article 5 of the Rules of Procedure.

The Respondent submitted the following to the Centre on 11 October 2024 and 15 October 2024, two days and six days after the submission deadline of 9 October 2024:

“You want to remove this domain” and “hello you want down this domain tiktok18.link”.

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

Having considered all the documentary evidence before me, as well as the Respondent’s lack of participation in these proceedings despite being afforded every opportunity to do so in accordance with Paragraph 5(e) of the Rules, the Panel concludes that it should proceed to decide on the Disputed Domain Name based on the Complaint and the evidence submitted by the Complainant.

The Respondent did not file a response in accordance with Article 5 of the Rules of Procedure. Furthermore, the Respondent submitted brief statements to the Centre on 11 October 2024 and 15 October 2024, two days and six days after the submission deadline of 9 October 2024, stating:

“You want to remove this domain” and “hello you want down this domain tiktok18.link”.

Given these circumstances, the Panel finds that the Respondent's late submission does not meet the requirements of the UDRP and will not be considered.

The disputed domain name <tiktok18.link> contains the terms "tiktok" and "18," and the generic top-level domain ".link." It is a well-established principle that generic top-level domains, such as ".link," are technical in nature and lack any proprietary significance. They do not confer distinctiveness and are incapable of differentiating the disputed domain name from the proprietary rights of others. Consequently, such suffixes are disregarded in the confusing similarity assessment. See *para. 1.11 of the WIPO Jurisprudential Overview 3.0*.

The Complainant has provided evidence of its trademark registrations, establishing its rights in the TIKTOK trademarks. The Panel finds that the Complainant owns the TIKTOK trademarks, which are registered in various jurisdictions, including the US, the UK, and the EU. The Panel observes that the Complainant's trademarks are fully incorporated into the Disputed Domain Name. The addition of "18" does not impart any new meaning and instead heightens the likelihood of confusion, given the Complainant's prominent presence in the social media sphere. The general public is likely to assume that the Disputed Domain Name is related to the Complainant's media products, potentially diverting Internet users away from the Complainant's official website.

The Panel notes that the Complainant has demonstrated ownership of the trademark registration for "TIKTOK" in multiple countries, well before the Respondent applied to register the Disputed Domain Name "tiktok18.link" on 5 July 2023.

Given the established registered rights in the "TIKTOK" trademarks and the aforementioned facts, the Panel finds that the Disputed Domain Name is confusingly similar to a trademark in which the Complainant has rights, thereby satisfying the requirements of paragraph 4(a)(i) of the UDRP.

B) Rights and Legitimate Interests

The Panel notes that the Respondent is not authorized by the Complainant to use its TIKTOK trademarks. The Respondent's inclusion of the Complainant's logo on the websites associated with the Disputed Domain Names indicates an attempt to exploit the fame and goodwill associated with the Complainant's brand. The Respondent's use of confusingly similar Disputed Domain Names, along with imitating the Complainant by displaying its logo, constitutes intellectual property infringement and passing off, which are inconsistent with the objectives of the UDRP.

The Panel concludes that such unauthorized use of the Complainant's trademark cannot confer any rights or legitimate interests upon the Respondent. There is *prima facie* evidence indicating that the Respondent has no rights or legitimate interests concerning the Disputed Domain Names. The burden of proof lies with the Respondent to demonstrate any claimed rights or legitimate interests, as outlined in *paragraph 2.1 of WIPO Jurisprudential Overview 3.0*.

It is well established that mere registration of the Disputed Domain Names does not suffice to establish rights or legitimate interests, particularly given that these registrations occurred significantly after the Complainant first used its trademark in commerce in 2016. The Respondent has not provided substantial evidence to show that the "tiktok18" domain names possess any "secondary meaning" among consumers.

The Panel notes that the TIKTOK trademarks have gained recognition within the relevant sector of the public due to extensive commercial use. Furthermore, there is no prior connection between the Complainant and the Respondent. The term "TIKTOK" is not commonly used in the English language, and the Respondent has failed to demonstrate that it is commonly known by the Disputed Domain Names.

The Complainant has not licensed or permitted the Respondent to use the Disputed Domain Names or any domain names incorporating the dominant elements of its registered trademarks. The Panel finds no evidence to suggest that the Respondent has any rights or legitimate interests concerning the Disputed Domain Names.

The Panel infers that the Respondent is not using the Disputed Domain Names for non-commercial or fair use purposes, but rather with the intent to misleadingly divert the relevant public and tarnish the goodwill associated with the Complainant's trademarks. Therefore, the Panel concludes that the Respondent has no rights or legitimate interests in the Disputed Domain Names, fulfilling the criteria outlined in paragraph 4(a)(ii) of the UDRP.

C) Bad Faith

Paragraph 4 (b) (Evidence of Registration and Use in Bad Faith) of UDRP provides that for the purposes of Paragraph 4 (a) (iii), the following circumstances, in particular but without limitation, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith:

- (i) circumstances indicating that you have registered or you have 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 your documented out-of-pocket costs directly related to the domain name; or
- (ii) you have 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 you have engaged in a pattern of such conduct; or
- (iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor, or
- (iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your web site 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 your web site or location or of a product or service on your web site or location.

The Panel notes that the Respondent is not authorized by the Complainant to use its TIKTOK trademarks. The Respondent's website associated with the Disputed Domain Name "tiktok18.link" contains pornographic images. While such content may not be prohibited in some jurisdictions, the Panel condemns the practice of diverting Internet users to such sites under the false impression that the domain name is associated with or connected to the Complainant.

The Panel recognizes that the Complainant is a well-known entity and that its distinctive TIKTOK trademarks have achieved significant recognition. The Disputed Domain Name was registered on 5 July 2023. Given the global fame of the TIKTOK trademarks, it is implausible that the Respondent selected the Disputed Domain Name without being aware of it. The Panel

concludes that the Respondent must have had prior knowledge of the Complainant and its trademarks at the time of registration, indicating bad faith.

By registering and using the Disputed Domain Name, the Respondent has prevented the Complainant from using its marks in corresponding domain names and disrupted the Complainant's business operations. Furthermore, the Respondent's actions have created confusion among the public, leading them to believe that there is an affiliation or endorsement by the Complainant, which is not the case.

The use of "tiktok18" in the Disputed Domain Name, combined with the sexually explicit content, misleads users into associating the Respondent's offerings with the Complainant's services, constituting bad faith. This aligns with Paragraph 4(b)(iv) of the UDRP, which addresses the intentional attraction of Internet users for commercial gain through confusion regarding the source or endorsement of a website.

It is a well-established principle that simply diverting the public to the Respondent's website does not constitute a bona fide offering of goods and services. The Panel considers the Respondent's ongoing registration and use of the Disputed Domain Name to be clear acts of bad faith.

The website associated with the Disputed Domain Name promotes sexually explicit content, further evidencing the Respondent's bad faith registration and use. This scenario exemplifies "porno-squatting," where confusion with a reputable trademark is exploited for commercial gain by redirecting users to adult content. The Panel finds that such use does not constitute a *bona fide* offering of goods or services.

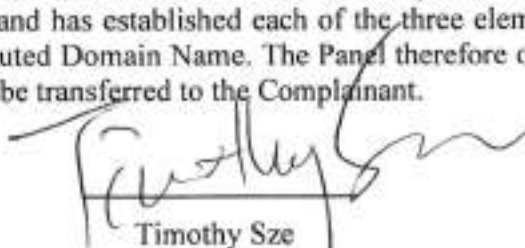
The Disputed Domain Name was registered significantly after the Complainant's first use of its trademark in commerce in 2016, reinforcing the inference that the Respondent was aware of the TIKTOK trademarks. The Panel views the Respondent's actions as dishonest misappropriation of the Complainant's registered trademarks, characterizing the Respondent's cybersquatting as an instrument of fraud.

While a prominent disclaimer might support claims of good faith in other contexts, the overall circumstances in this case indicate bad faith on the part of the Respondent. Therefore, the mere existence of a disclaimer does not mitigate this bad faith.

In conclusion, the Panel finds that the Respondent has registered and is using the Disputed Domain Name in bad faith, satisfying the criteria outlined in Paragraph 4(a)(iii) of the UDRP.

6. Decision

For all the foregoing reasons, the Panel concludes that the Complainant has provided sufficient evidence to support its claims and has established each of the three elements of paragraph 4 of the UDRP concerning the Disputed Domain Name. The Panel therefore orders that the Disputed Domain Name <tiktok18.link> be transferred to the Complainant.



Timothy Sze
Panelist

Dated: 28 October 2024