



Asian Domain Name Dispute Resolution Centre

hongkong

(Hong Kong Office)

ADMINISTRATIVE PANEL DECISION

Case No.	HK-2401941
Complainants:	Tencent Holdings Limited and 腾讯科技 (深圳) 有限公司
Respondent:	Bill Lerm
Disputed Domain Name:	<tencentdocs.com>

1. The Parties and Contested Domain Name

The Complainants are Tencent Holdings Limited, of P.O. Box 2681 GT, Century Yard, Cricket Square, Hutchins Drive, George Town, Grand Cayman, Cayman Islands, and 腾讯科技 (深圳) 有限公司 (i.e. Tencent Technology (Shenzhen) Co., Ltd.) of 中国广东省深圳市南山区高新区科技中一路腾讯大厦 35 层. The authorised representative of the Complainant is Mr. Paddy Tam of CSC Digital Brand Services Group AB, Sweden.

The Respondent is Bill Lerm, of Cudaya Lala, Berlin, 14199 Germany.

The domain name at issue is <tencentdocs.com> (the “Domain Name”), registered by Bill Lerm with DYNADOT LLC Dynadot Inc., United States.

2. Procedural History

On November 11, 2024, the Hong Kong Office of the Asian Domain Name Dispute Resolution Centre (the “Centre”) received the Complaint filed by the Complainant in accordance with the Uniform Domain Name Dispute Resolution Policy (the “Policy”) approved by the Internet Corporation for Assigned Names and Numbers (ICANN) on 24 October 1999 and the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”).

On November 13, 2024, Dynadot, Inc. (the “Registrar”) confirmed with the Centre the registration details of the disputed Domain Name. On November 14, 2024, the Centre sent an email communication to the Complainant providing the registrant and contact information disclosed by the Registrar and inviting the Complainant to submit an amendment to the Complaint by November 19, 2024. The Complainant submitted the amended Complaint to the Centre on November 14, 2024. On November 15, 2024, the Centre sent the Notification of Commencement of Proceedings to the Respondent

informing the Respondent that the proceedings officially commenced and requested the Respondent to reply within 20 days (i.e. on or before December 5, 2024). On December 9, 2024, the Centre confirmed receiving no response from the Respondent within the specified timeline. On December 9, 2024, the Centre appointed Mr. Fabrizio Bedarida as the sole panelist.

3. Factual background

The Complainant No. 1, Tencent Holdings Limited, established in November 1998, is a leading provider of Internet value added services in China. Since its establishment, Tencent has maintained steady growth under its user-oriented operating strategies. On June 16, 2004, the Complainant went public on the main board of the Hong Kong Stock Exchange. The Complainant is ranked 132nd in Fortune Global 500 World's Biggest Companies 2021 ranking and 45th in Fortune's ranking of the Top 50 Companies with the best long term growth potential in 2020. According to Fortune, the Complainant is also ranked amongst the World's Most Admirable Companies in 2021.

The Complainant maintains a large internet presence through the website at its primary domain name <tencent.com>. According to SimilarWeb.com, the Complainant's <tencent.com> website received over 110 million visitors in the 3-month period between May and July 2022 and is ranked the 1,836th most popular website globally and the 108th most popular website in China.

Tencent Holdings Limited and 腾讯科技 (深圳) 有限公司 (collectively "the Complainant"), owns various trademark registrations for the mark TENCENT, including the following:

United States trademark registration no. 5409861 for TENCENT (word), registered on February 27, 2018.

United States trademark registration no. 5500137 for TENCENT (word), registered on June 26, 2018.

European Union trademark registration no. 006033773 for TENCENT (word), registered on November 18, 2008.

Chinese trademark registration no. 1752676 for TENCENT, registered on April 21, 2002.

The disputed Domain Name was registered on 18 April 2018 by Bill Lerm, an individual apparently located in Germany. The disputed Domain Name redirects to an active website on the Dynadot platform, where it is placed for sale for \$2,000 USD.

The Complainant's primary domain name, <tencent.com>, was registered on September 14, 1998.

4. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed Domain Name.

Notably, the Complainant contends that the disputed Domain Name is confusingly similar to the TENCENT trademark. In this sense, the Complainant claims: that the addition of the term “docs” does not prevent a finding of confusing similarity with the Complainant’s TENCENT trademark, which remains clearly recognizable in the disputed Domain Name; that the Respondent has no rights or legitimate interests in respect of the disputed Domain Name; that the disputed Domain Name is redirecting to a website where it is being offered for sale, and that such use does not constitute a bona fide offering of goods or services, nor does it give the Respondent rights or legitimate interests in the disputed Domain Name; that at the time of filing the complaint, the Respondent was using a privacy WhoIs service and this attempt to conceal its identity shows the Respondent’s bad faith in registering the disputed Domain Name. In addition, the Complainant contends that the combination of the term “docs” (which refers to the Complainant’s cloud-based document tool), with the TENCENT trademark in the disputed Domain Name, is likely to mislead consumers into believing that the website at the disputed Domain Name is associated with the Complainant or provides services related to the Complainant’s business, and that this deliberate attempt to create confusion demonstrates bad faith use. Moreover, the disputed Domain Name is redirecting to a website where it is being offered for sale for an amount that far exceeds the Respondent’s out-of-pocket expenses in registering the disputed Domain Name, which serves as further evidence of the Respondent’s lack of rights and legitimate interests. The Complainant further claims that the composition of the disputed Domain Name makes it inconceivable that the Respondent registered the Domain Name without specifically targeting the Complainant. Finally, the Complainant claims that the Respondent’s registration of the disputed Domain Name on April 18, 2018, i.e. immediately after the Complainant’s announcement, earlier that same day, of the launch of its ‘Tencent Docs’ product (a collaborative document sharing platform), strongly suggests that the Respondent knew of the Complainant and only registered the disputed Domain Name in response to the publicity generated and received by the Complainant.

B. Respondent

The Respondent did not file a Response to the Complaint.

5. Findings

Preliminary Matters:

Consolidation of Multiple Complainants

The Chinese trademark for TENCENT registration no. 1752676, is held by the Complainant No. 2¹, while other registrations are held by the Complainant No. 1, hence the Complainants request for the Consolidation of the Complainants. In terms of section 4.11.1 of the WIPO Overview 3.0, the Panel finds that the Complainants have a specific common grievance against the Respondent as they have a common legal interest in the trademarks

¹ The Complainants have not attached a registration certificate (or equivalent document) for the Chinese TENCENT trademark. However, details of this trademark registration, such as the registration number and the registration date, were indicated in the Complaint. The Panel has verified this data on a public database.

that are central to this Complaint. It is therefore equitable and procedurally efficient to allow the consolidation of the Complainants. In addition, the Complainants have identified the party to whom the Domain Name should be transferred.

Substantive Matters:

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 shown rights in the TENCENT trademark for the purposes of the Policy. The entirety of the TENCENT trademark is reproduced and recognizable within the disputed Domain Name. Accordingly, the disputed Domain Name is confusingly similar to the mark for the purposes of the Policy.

Although the addition of other terms, here "docs", may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed Domain Name and the mark for the purposes of the Policy.

The Panel finds the first element of the Policy has been established.

B) Rights and Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. (WIPO Overview 3.0, section 2.1.)

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed Domain Name. The Respondent has not rebutted the Complainant's prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed Domain Name such as those enumerated in the Policy or otherwise.

Furthermore, the nature of the disputed Domain Name carries a risk of implied affiliation and cannot constitute a fair use as it effectively impersonates or suggests sponsorship or endorsement by the Complainant. (WIPO Overview 3.0, section 2.5.1.)

The Panel finds the second element of the Policy has been established.

C) Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, the Panel notes that, as discussed below, it is highly likely that the Respondent was aware of the Complainant's trademark registrations and rights to the TENCENT trademark when it registered the disputed Domain Name.

The disputed Domain Name contains in its entirety, without any authorization or approval, the Complainant's registered TENCENT trademark.

Owing to the substantial presence established, worldwide and on the Internet, by the Complainant, it is at the least very unlikely that the Respondent was not aware of the existence of the Complainant, or of the Complainant's trademark, when registering the disputed Domain Name.

In fact, the Complainant's TENCENT trademarks and tencent.com domain name, were registered many years before the Respondent registered the disputed Domain Name.

Noting also the composition of the disputed Domain Name, incorporating the Complainant's distinctive trademark with a descriptive term related to the Complainant's activities, and the fact that the disputed Domain Name was registered immediately after the Complainant's launch of its "Tencent Docs" platform, it is more likely than not that the Respondent, when registering the disputed Domain Name, had knowledge of the Complainant's earlier rights to the TENCENT trademark.

Panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. (WIPO Overview 3.0, section 3.1.4.) The Panel is therefore satisfied that the Respondent registered the disputed domain name in bad faith.

The bad faith registration and use of the disputed domain name are also affirmed by the fact that the Respondent did not deny the assertions of bad faith made by the Complainant in this proceeding.

Finally, the Respondent is attempting to sell the disputed Domain Name for an amount most likely in excess of the Respondent's out-of-pocket costs relating to the disputed Domain Name. Owing to the circumstances of the case, the Panel finds that this is further inference of bad faith use of the disputed Domain Name.

The Panel finds that the Complainant has established the third element of the Policy.

6. Decision

The Panel finds that the Complainant has met the requirements of Paragraph 4 of the Policy, and the complaint is established. The Complainant has requested the Panel to transfer the disputed Domain Name to the Complainant No. 2 - 腾讯科技 (深圳) 有限公司 [Tencent Technology (Shenzhen) Co., Ltd.]. Consequently, the disputed Domain Name <tencentdocs.com> is to be transferred to Complainant No. 2 in accordance with Article 15 of the UDRP Rules.



Fabrizio Bedarida
Panelists

Dated: December 18, 2024