



Asian Domain Name Dispute Resolution Centre

hong kong

(Hong Kong Office)

ADMINISTRATIVE PANEL DECISION

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|---------------------------------|--------------------------------------|
| Case No. | HK-1400629 |
| Complainant: | Television Broadcasts Limited |
| Respondent: | Fundacion Private Whois |
| Disputed Domain Name(s): | <tvbstream.com> |

1. The Parties and Contested Domain Name

The Complainant is Television Broadcast Ltd, of TVB City, 77 Chun Choi Street, Tseung Kwan O Industrial Estate, Kowloon, Hong Kong.

The Respondent is Fundacion Private Whois, of Attn: tvbstream.com, aptds. 0850-00056, Panama, Zona 15.

The domain name at issue is tvbstream.com, registered by Respondent with internet.bs Corp, of Sea Beach Boulevard, Sea Beach Estates, N-4892 Nassau, The Bahamas.

2. Procedural History

- (1) Pursuant to the Uniform Domain Name Dispute Resolution Policy (the "Policy") adopted by the Internet Corporation for Assigned Names and Numbers ("ICANN") on 9 July 2014, a complaint was filed with the Hong Kong Office of the Asian Domain Name Dispute Resolution Centre ("ADNDRC" or the "Centre").
- (2) On 9 July 2014, the Centre transmitted by email to the Registrar a request for registrar verification in connection with the domain name at issue. On 17 July 2014, the Registrar provided the Centre with its verification response confirming that the registrant of the Disputed Domain Name is the Respondent; and that the Policy applies to the Disputed Domain Name. The Centre notified the Complainant of the information obtained from the Registrar.
- (3) After having checked the Complaint the Centre issued a Notification of Deficiencies to the Complainant on 21 July 2014. On 22 July 2014, the Complainant filed an Amended Complaint. The Centre verified that the Amended Complaint satisfied the formal requirements of the Policy, the Rules for Uniform Domain Name Dispute Resolution Policy (the "Rules") and the ADNDRC Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the "Supplemental Rules"). The Centre forwarded an official copy of the Complaint to the Respondent on 23 July 2014 and the proceedings commenced on the same date. The due date for Response was 12 August 2014. No

response was filed by the Respondent and the Centre notified the Respondent's default on 13 August 2014.

- (4) On 21 August 2014 the Centre appointed Douglas CLARK as the single panelist in this matter after having obtained confirmation from the panelist that he shall be in the position to act impartially and independently between the parties before accepting the appointment. On the same date, the Centre transferred the file to the Panel.
- (5) The Panel finds that it was properly constituted.

3. Factual background

The Complainant is a free to air television station in Hong Kong. It was first established in 1967. It was listed on the Hong Kong Stock Exchange in 1988 and employs over 4,600 staff and artistes worldwide. The Complainant has registered the trademark TVB in a variety of classes in 30 jurisdictions around the world and currently holds 69 domain names which include the letters "tvb". In 1999, the Complainant launched its website tvb.com to provide information on programs and video clips. In 2010, the Complainant set up the "myTV" section of its website which provide live streaming and VOD services for viewers.

The Respondent registered the disputed domain name in February 2014. The Respondent set up a website to allow viewers to watch the Complainant's television programmes.

4. Parties' Contentions

A. Complainant

The Complainant's contentions may be summarized as follows:

Identical or confusingly similar

The Complainant argues that the disputed domain name <tvbstream.com> and is made up of the registered trademark TVB to which the generic or descriptive term "stream" has been added. It is therefore confusingly similar to the Complainant's registered trademarks TVB.

No rights or legitimate interests

The Complainant submits that the Respondent has not been known by the disputed domain name and the Respondent has no connection with the Complainant or any of its affiliates and has never sought or obtained any trademark registrations for TVB.

Further the Complainant submits that the use of the website under the domain name to stream the Complainant's programmes is aiding and abetting copyright infringement.

Registered and used in bad faith

The Complainant submits that given the widespread fame of the trademark TVB there is no doubt that before registration of the disputed domain name the Respondent knew of the Complainant's rights in the TVB trademark. The unauthorized streaming of the Complainant's programs on the website at the disputed domain name <tvbstream.com>

which displays advertisements is clearly use in bad faith by distracting users from the Complainant's website and riding on the reputation of the Complainant.

B. Respondent

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

5. Findings

This is a very simple case of clear domain name hijacking for the purposes of commercial gain which the UDRP was designed to stop.

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 or Confusingly Similar

The disputed domain name <tvbstream.com> is made up of the registered trademark TVB and descriptive term, "stream". The disputed domain name is clearly confusingly similar to the registered trademark TVB. The first part of the paragraph 4(a) of the Policy is therefore satisfied.

B. Rights or Legitimate Interests

The Respondent has not responded to the Complaint to assert any rights or legitimate interests. The Complainant has made out a prima facie case that the Respondent has no rights or legitimate interests. None of the circumstances in paragraph 4(c) of the Policy, which sets out how a respondent can prove its rights or legitimate interests, are present in this case.

C. Registered and Used in Bad Faith

For the same reasons as those above, the Panel has no hesitation in finding that the disputed domain name <tvbstream.com> was registered in bad faith and are being used in bad faith.

This case falls with paragraph 4(b)(iv) of the Policy which provides that a registrant has registered and is using a domain name in bad faith where:

"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 Respondent is allowing the streaming of infringing copies of the complainant's programs and receiving advertising revenue. This is clear registration and use in bad faith.

6. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name, <tvbstream.com>, be transferred to the Complainant.



Douglas Clark
Panelist

Dated: 3 September 2014