



**(Hong Kong Office)**

**ADMINISTRATIVE PANEL DECISION**

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<b>Case No.</b>	HK-2001363
<b>Complainant:</b>	Bytedance Ltd.
<b>Respondent:</b>	TikTok / Instagram
<b>Disputed Domain Name(s):</b>	<tiktoksupportcenter.com>

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

The Complainant is Bytedance Ltd., of P.O. Box 31119 Grand Pavilion, Hibiscus Way, 802 West Bay Road, Grand Cayman, KY1 - 1205 Cayman Islands.

The Respondent is TikTok / Instagram, of Sa abi, tehlikeli sokak, Los Angeles, CA 90001, United States.

The domain name at issue is <tiktoksupportcenter.com>, registered by Respondent with Google LLC, located at 1600 Amphitheatre Parkway, Mountain View California 94043, United States.

**2. Procedural History**

Complainant filed the complaint on June 9, 2020.

Respondent did not respond to the complaint.

Complainant has not initiated other legal proceedings in respect of the disputed domain name.

**3. Factual background**

Complainant is Bytedance Ltd, an internet technology company which owns a serie of content platforms such as Toutiao, Douyin or the world-famous TikTok.

TikTok is an app which allows users to create videos incorporating music samples, filters, quick cuts, stickers and other creative add-ons. Available in more than 150 different markets and in 75 languages, TikTok has become the leading destination for short-form mobile video. It also has global offices in many countries and cities, including Los Angeles, New York, London, Paris, Berlin, Dubai, Mumbai, Singapore, Jakarta, Seoul, and Tokyo.

Complainant, together with its subsidiary, TikTok Information Technologies UK Limited, is the owner of the following trademarks:

- US “TIK TOK” trademark No. 5653614, of January 15, 2019 and registered in classes 9, 38, 41 and 42;
- Hong-Kong “TIK TOK” trademark No. 304569373, of June 20, 2018 and registered in classes 9, 38, 41 and 42;
- Australian “TIK TOK” trademark No. 1949117, of August 17, 2018 and registered in classes 9, 38 and 41;
- EU “TIK TOK” trademark No. 017913208, of October 20, 2018 and registered in classes 9, 25, 35, 42, 45;
- WIPO “TIK TOK” trademark No. 1485318, of March 19, 2019 and registered in classes 9, 25, 35, 38, 41, 42 and 45.

Complainant also owns several domain names such as <tiktok.com>, registered in 2018.

Respondent is TikTok / Instagram, who is the owner of the disputed domain name <tiktoksupportcenter.com> registered on April 6, 2020 for a one year-period.

#### **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:

Complainant states that it is the owner of the TIK TOK trademark. It also argues that it is standard practice not to consider the extension when comparing a disputed domain name to the Complainant’s trademark, under the confusing similarity test.

Furthermore, Complainant considers that Respondent just added the descriptive terms “support center” to the trademark TIK TOK thereby making the disputed domain name confusingly similar to the Complainant’s trademark.

In addition, Complainant alleges that the omission of space between “tik” and “tok” does not distinguish the disputed domain name from the Complainant’s TIK TOK trademark.

Complainant adds that the Respondent’s past use of the disputed domain name contributes to the confusion. In fact, before the website was deactivated at the Complainant’s request, it was resolving to a site posing as the official TIK TOK support website.

Considering the above elements, Complainant states that the disputed domain name is confusingly similar to the Complainant’s trademark.

- ii. Respondent has no rights or legitimate interests in respect of the domain name:

Complainant alleges that it is not affiliated in any way and has not given any permission, authorization or license to Respondent to use the TIK TOK trademark, including the domain name.

Complainant argues that Respondent is not commonly known by the disputed domain name. Complainant has not found any registered trademark or trade name corresponding to the disputed domain name and owned by Respondent. Furthermore, Complainant states that the inclusion of “Tiktok” in Respondent’s name as provided for the registration of the disputed domain name, is not in itself evidence that Respondent is commonly known by this name.

Complainant also states that Respondent uses a privacy WHOIS service, which past panels have also found to equate to a lack of legitimate interest.

Moreover, Complainant adds that prior to its takedown, the disputed domain name redirected internet users to a website that copied and attempted to duplicate Complainant’s official Support Center website by replicating Complainant’s trademark and logo as well as the color scheme and design found on Complainant’s website. Complainant stated that this use of the disputed domain name, presumably for commercial gain, and with devious, nefarious motives, clearly fails to constitute a *bona fide* offering of goods or services pursuant to Policy.

Finally, Respondent registered the disputed domain name on April 6, 2020, which is after Complainant filed for registration of its TIK TOK trademark with the USPTO, HKIPD, IPAU, EUIPO and WIPO, and after Complainant’s first use in commerce of its trademark in 2017. The disputed domain name’s registration date is also posterior to Complainant’s registration of its <tiktok.com> domain name in 2018.

Complainant concludes 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:

Complainant states that its TIK TOK trademarks are known internationally and used since 2017, well before the registration of the disputed domain name by Respondent.

Complainant argues that Respondent has registered a domain name that was intentionally confusing in comparison to Complainant’s trademark. Resolving to a website imitating the Complainant’s website, Respondent has demonstrated a knowledge of and familiarity with Complainant’s brand and business.

Furthermore, Complainant adds that Respondent had used the disputed domain name’s website to fraudulently pose as Complainant for purposes of launching a phishing attack, which is evidence of use in bad faith.

Complainant also claims that Respondent has employed a privacy service to hide its identity and provided false Whois information to the relevant registrar, which is a proof of bad faith.

Considering all these points, Complainant states that it is likely that Respondent knew of and targeted Complainant’s trademark and used the disputed domain name in bad faith.

## B. Respondent

Respondent did not respond to Complainant's contentions.

## 5. Findings

Paragraph 15(a) of the Rules provides that the "Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable". Paragraphs 10(b) and 10(d) of the Rules provides that: "In all cases, the Panel shall ensure that the Parties are treated with equality and that each Party is given a fair opportunity to present its case" and that "The Panel shall determine the admissibility, relevance, materiality and weight of the evidence".

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;
- 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

Panel finds that Complainant has duly shown that it owns rights in the TIK TOK trademark.

Firstly, it is commonly considered that a generic Top-Level Domain ("gTLD"), such as ".com", shall be disregarded when assessing whether a domain name is identical or confusingly similar to a trademark (see section 1.11 of the WIPO Overview 3.0).

Secondly, the Disputed Domain Name <tiktoksupportcenter.com> reproduces the Complainant's trademark in its entirety and combines this trademark with the descriptive terms "support center".

Furthermore, previous Panels have considered as a rule that the addition of a descriptive term does not prevent a finding of confusing similarity (See for example WIPO Case No. DCO2020-0007, *Siemens AG v. Domains by Proxy, LLC / Christina Duncan, GIS*: "In this case, the Domain Name incorporates the Complainant's trademark, with the addition of the descriptive term "energy". The addition does not avoid confusion.").

In this case, the TIK TOK trademark is the distinctive element in the Disputed Domain Name. Respondent only added the generic terms "support center". Panel finds this is not sufficient to distinguish the disputed domain name from the TIK TOK trademark. (See for example WIPO Case No. D2019-3212, *Accenture Global Services Limited v. Duram Mascarin*: "The mere addition of the descriptive term "logistics" does not change the overall impression produced by the disputed domain name and is not sufficient to distinguish the disputed domain name from the Complainant's trademark").

The disputed domain name incorporates Complainant's trademark in its entirety, altered only by the omission of the space between the elements "tik" and "tok" that form a part of Complainant's trademark (See for example WIPO Case No. D2019-2587, *Movitex v. Contact Privacy Inc. Customer 0154576873 / Anthony Felix, Pedi Comfort*: "By comprising the Complainant's

*trademark in such a manner, the Panel finds the Complainant's trademark to be easily recognizable in the disputed domain name").*

Complainant has demonstrated that the past use of the disputed domain name, resolving to a fake TIK TOK website offering support services, reproduced the TIK TOK official support services page. This adds to the probability of creating a confusion in the consumer's mind.

In accordance with Paragraph 4(a)(i) of the Policy, the Panel finds that the Disputed Domain Name is confusingly similar to Complainant's trademark.

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

Complainant must first make a *prima facie* case that Respondent lacks the rights and legitimate interests in the disputed domain name under Paragraph 4(a)(ii).

Complainant has duly demonstrated that it did not give any authorization or license to Respondent neither to use the sign nor to register the disputed domain name.

A basic search on the sign refers directly to Complainant while it does not mention Respondent. To that extent, it shows that Respondent is not commonly known under this name.

Moreover, the use of a WHOIS privacy service by the Respondent can be a clue and points to a lack of legitimate interest. If the Respondent had a legitimate interest, it would not have needed to hide its identity.

Prior to its takedown, the disputed domain name resolved to a website that copied the Complainant's website design, color scheme and logo. This does neither constitute a *bona fide* offering of goods or services nor a legitimate noncommercial or fair use. (See for example WIPO Case No. D2019-3003, *Cdiscount v. Contact Privacy Inc. Customer 0155775631 / Jaouad Jermoune, cdiscount1*).

Besides, Complainant duly demonstrated that Respondent registered the Disputed Domain Name after the registration of the trademark TIK TOK.

Thus, Panel finds that Complainant has established a *prima facie* case that Respondent lacks the rights and legitimate interests in the Disputed Domain Names pursuant to Paragraph 4(a)(ii) of the Policy.

### **C) Bad Faith**

Paragraph 4(a)(iii) of the Policy requires Complainant to demonstrate that the Disputed Domain Names were registered and are being used in bad faith.

Firstly, Complainant has duly shown its worldwide reputation regarding the number of downloads of its apps across the world. It seems almost impossible that Respondent never heard of Complainant's trademark.

Furthermore, the disputed domain name was linked to a website that was related to Complainant's activity and that reproduced the TIK TOK trademark and logo. In that regard, Respondent has shown he knew about Complainant's trademark and created a website with the

intention to confuse users. There is no doubt that Respondent targeted Complainant at the time of the disputed domain name registration.

Panel therefore finds the disputed domain name was registered in bad faith.

Secondly, the fact that Respondent registered the disputed domain name using a privacy service is not, in itself, a proof of bad faith. However, the fact that it provided false information to the Registrar leads to think that the Disputed Domain Name was registered in bad faith (See for example WIPO Case No. D2020-0902, *Carrefour SA v. WhoisGuard, Inc. / Jes Madsen*: “*the Respondent registered the disputed domain name through a privacy service, which may not be evidence of bad faith per se, but the use of a privacy service linked with the fact that the Respondent has used false or incomplete contact details to register the disputed domain name, in the context of this case, is an indication that the Respondent wanted to hide the identity and use the disputed domain name in bad faith*”).

Furthermore, the webpage of the disputed domain name resolved to a form inviting customers to disclose personal data. In this regard, Complainant has duly shown the malicious intent of Respondent. And above all, the disputed domain name is used for phishing scheme, as CSC has informed Complainant. It could not be considered that those acts are constitutive of good faith (See for example WIPO Case No. D2020-1033, *The Dow Chemical Company v. Rubena Lowe, I sell domains! Please contact me directly!* : “*This phishing scam is clearly a fraudulent and bad faith use of the Domain Name.*”). Respondent intentionally wanted to disturb Complainant’s business and attract its consumers.

Therefore, Panel finds that the disputed domain name is used in bad faith.

Complainant has, therefore, satisfied the requirements of Paragraph 4(a)(iii) of the Policy.

## 6. Decision

For the foregoing reasons, in accordance with Paragraph 4(i) of the Policy and Paragraph 15 of the Rules, the Panel orders that the Disputed Domain Names must be transferred to the Complainant.

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“Nathalie Dreyfus”  
Panelists

Dated: July 23, 2020

