



Asian Domain Name Dispute Resolution Centre

hong kong

(Hong Kong Office)

ADMINISTRATIVE PANEL DECISION

Case No:	HK-2001366
Complainant:	Television Broadcasts Limited
Respondent:	Dav Beck
Disputed Domain Name:	<BILUTVB.COM>

1. The Parties and Contested Domain Name

The Complainant is **Television Broadcasts Limited** whose address is situated at 10/F, Main Building, TVB City, 77 Chun Choi Street, Tseung Kwan O Industrial Estate, Kowloon, Hong Kong.

The Respondent is **Dav Beck** whose address is situated at dist 9, Ho Chi Minh, Ho Chi Minh P, Viet Nam, Postal Code 700000.

The domain name at issue is **<BILUTVB.COM>** (“**the Disputed Domain Name**”), registered by the Respondent with **NameCheap, Inc.** (“**the Registrar**”) whose address is situated at Namecheap Legal Department, 4600 East Washington Street, Suite 305, Phoenix, AZ 85034, USA.

2. Procedural History

On 19 June 2020, the Complainant filed a Complaint with Hong Kong International Arbitration Centre (“**HKIAC**”), the Hong Kong Office of Asian Domain Name Dispute Resolution Centre (“**ADNDRC**”), pursuant to the Uniform Domain Name Dispute Resolution Policy (“**Policy**”) approved by the Internet Corporation for Assigned Names and Numbers (“**ICANN**”) on 24 October 1999, the Rules for Uniform Domain Name Dispute Resolution Policy (“**Rules**”), approved by ICANN Board of Directors on 28 September 2013 and the ADNDRC Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (“**Supplemental Rules**”). effective from 31 July 2015.

On 22 June 2020, HKIAC transmitted by email to the Registrar a request for confirmation of the WHOIS records of the Disputed Domain Name and other related information.

On 5 July 2020, the Registrar confirmed by email that it is the registrar of the Disputed Domain Name that was registered by the Respondent for the period from 14 April 2019 to 14 April 2021; and that the Policy is applicable to the dispute relating to this domain name

and the language of the Registration Agreement of the Disputed Domain Name is English and provided to HKIAC the Respondent's email address and other WHOIS information of the Disputed Domain Name.

On 6 July 2020, in accordance with Articles 2(a) and 4(a) of the Rules, HKIAC issued a Written Notice of the Complaint and formally notified the Respondent of the commencement of the proceedings in this dispute. In accordance with Article 5(a) of the Rules, the due date for the Respondent to submit a Response to the Complaint was 26 July 2020. But no Response was submitted by the Respondent. On 28 July 2020, HKIAC issued a notification of the Respondent in Default.

On 31 July 2020, HKIAC appointed Mr. Raymond HO as the sole panelist of the Panel in this matter; and transmitted the case file to the Panel on the same date. Prior to the appointment, the said sole panelist had submitted to HKIAC his Statement of Acceptance and Declaration of Impartiality and Independence in compliance with Article 7 of the Rules.

3. Factual background

The Complainant, Television Broadcasts Limited, commonly known as TVB, is the first wireless commercial television station in Hong Kong, first established in 1967 and has been publicly listed on the Hong Kong Stock Exchange since 1988. The Complainant has now grown over the years with operations that provide a wide variety of services in Hong Kong and worldwide. The principal activities of Complainant are television broadcasting, programme production and other broadcasting related activities such as programme and Video-On-Demand (“VOD”) licensing, digital media business, audio and video products selling and distribution, etc. Its Chinese programmes are dubbed into other languages and are distributed to more than 200 countries and regions.

In 1999, the Complainant launched its principal website “TVB.COM” (<http://www.tvb.com>) on the Internet. In 2008, the Complainant established “myTV” section at TVB.COM for its drama and variety programmes for viewing on the Internet by means of live streaming and VOD in Hong Kong. In 2010, In 2011, the Complainant extended its “myTV” to mobile application in Hong Kong. In 2013, the Complainant launched “GOTV” mobile application for users to watch its drama on VOD basis via Internet on computer and mobile devices in Hong Kong. In 2016, Complainant launched “myTV SUPER” OTT (“over the top”) services for viewers to watch its dramas and variety programmes on livecast and VOD basis via Internet and/or set top box and/or applications on television, computer and mobile devices and through website <http://www.mytvsuper.com> in Hong Kong.

The Complainant's wholly owned subsidiary, TVBI Company Limited (“TVBI”), is responsible for distribution of Complainant's Chinese language programmes across the world. TVBI and its sub-licensees supply Complainant's programmes to free-to-air broadcasters, cable and satellite television broadcasting service operators, telecommunication services provider, websites, video distributors and video-on-demand service providers worldwide. Since 2005, TVBI begins to exploit the VOD and interactive media market in PRC. TVBI has licensed the Complainant's programmes to numerous VOD service providers. In August 2012, Complainant, China Media Capital and Shanghai Media Group set up a joint venture company 上海翡翠東方傳播有限公司

(“TVBC”) replacing TVBI to handle Complainant’s programmes sub-licensing in People’s Republic of China. In 2014, the Complainant’s wholly owned subsidiary, TVB Anywhere Limited, launched “TVB Anywhere” for viewers to watch the Complainant’s Programmes and channels on television via set top box in overseas regions. In 2019, TVB Anywhere Limited launched “TVB Anywhere+” mobile application for viewers to watch Complainant’s Programmes and channels on mobile devices and/or television via open Internet in overseas regions. The Complainant’s wholly owned subsidiary, TVB (USA) Inc. (“TVBUSA”), provides satellite and cable TV services in the USA. In addition, the Complainant is also a member of the Canadian Fairchild Media Group (“Fairchild”); and the Complainant’s TV programmes are introduced at Fairchild television channel’s webpage, <http://fairchildtv.com> for its viewers in Canada.

Apart from the domain name “TVB.COM” for its principal official website “<http://www.tvb.com>” first launched in 1999, the Complainant and its subsidiaries have also registered a portfolio of over 160 domain names, each of which bears the mark “TVB”, namely, “tvb.me”, “tvbihk.com.hk”, “tvbusa.com”, “tvbusa.us”, “tvbwkly.com”, “tvb.asia”, “tvbartistesblog.com”, “tvbartisteblog.com”, “tvbartistsblog.com”, “tvbartistblog.com”, “tvbartistesblog.com.hk”, “tvbartisteblog.com.hk”, “tvbartistsblog.com.hk”, “tvbartistblog.com.hk”, “tvbartistesblog.com.cn”, “tvbartistesblog.cn”, “tvbartistblog.com.cn”, “tvbartistblog.cn”, “tvbartisteblog.com.cn”, “tvbartisteblog.cn”, “tvbartistsblog.com.cn”, “tvbartistsblog.cn”, “tvbmusic.com.hk”, “tvbnews.com.hk”, “tvbn.com.hk”, “tvbgroup.com.cn”, “tvbgroup.cn”, “tvbchina.com.cn”, “tvb.com.cn”, “tvb.hk”, “tvb.com.hk”, “tvb.com”, “tvbnewsroom.com.hk”, “tvbn.hk”, “tvbof.com.mo”, “tvbop.com.mo”, “tvb.co.in”, “tvb.com.vn”, “tvb.com.sg”, “tvb.sg”, “tvb.ae”, “tvb.xxx”, “tvbi.xxx”, “tvbchina.cn”, “tvbc.com.cn”, “tvbfinance.com”, “tvbcharity.hk”, “tvbcharity.com.hk”, “tvbcharity.org”, “tvbcharity.org.hk”, “tvbc.中国”, “tvbappstore.com.hk”, “tvbappstore.hk”, “tvbappstore.com”, “tvbappstore.net”, “tvb.tm”, “tvbanywhere.com”, “tvbanywhere.net”, “tvbanywhere.hk”, “tvbanywhere.com.hk”, “tvbgo.hk”, “tvb-go.hk”, “tvbgold.hk”, “tvb-gold.hk”, “tvbzhibo.com”, “tvb123.com”, “tvbdo.com”, “tvbcorporate.com”, “tvbcorporate.hk”, “tvbcorporate.com.hk”, “tvbdo.org”, “tvb8.com.hk”, “tvbeurope.net”, “tvbeurope.hk”, “tvbeurope.asia”, “tvbeurope.cn”, “tvbeurope.com.cn”, “tvbeurope.cn.com”, “tvbeurope.co.in”, “tvbeurope.com.tw”, “tvbeurope.in”, “tvbeurope.net.cn”, “tvbeurope.tw”, “tvbeurope.com.hk”, “itvb. 商标”, “tvbeurope.biz”, “tvbeurope.info”, “tvbeurope.org”, “tvbdo.info”, “tvbstream.com”, “tvbdo.eu”, “tvb.vn”, “tvbeurope.eu”, “aztvb.com”, “tvb22.com”, “tvb.website”, “tvb.biz”, “tvb-online.com”, “tvb.video”, “tvblove.com”, “tvb.love”, “tvbspecial.com”, “tvb2014.com”, “tvbxinghe.com.hk”, “mytvb.hk”, “tvbihk.com”, “tvbihk.info”, “tvbonly.com”, “tvbys.com”, “tvbow.com”, “tvbyy.com”, “tvbanywhere.sg”, “tvbanywhere.com.sg”, “dramatvb.com”, “mytvbanywhere.com”, “tvbroaming.com”, “tvbpv.com”, “tvbeurope.org.cn”, “tvbanywhere.com.my”, “tvb.中国”, “tvbanywhere.my”, “tvbihk.com”, “tvbf.com.hk”, “hdtvb.me”, “hdtvb.site”, “tvbcms.com”, “tvbpv.net”, “tvbnetworkvision.net”, “tvbnv.net”, “tvbpayvision.com”, “tvbnetworkvision.com”, “tvbnv.com”, “tvbnetworkvision.tv”, “tvbnv.tv”, “tvbvideo.co.uk”, “hdtvb.biz”, “tvbi.online”, “tvbi.news”, “watchtvb.com”, “tvbyb.com”, “tvbanywhere.app”, “tvb8vn.com”, “tvbnewwings.com”, “tvbnewwings.asia”, “tvbnewwings.hk”, “tvbnewwings.com.hk”, “tvbnetworkvision.com.hk”, “tvbnetworkvision.hk”, “tvbnv.hk”, “tvbnv.com.hk”, “tvbyb.hk.com”, “seesetvb.net”, “tvbweekly.com”, “tvbweek.com”, “tvbweeklyhk.com”, “tvbweekly.com.hk”, “tvbweek.com.hk”, “tvbvideo.net”, “tvb01.com”, “onlytvb.com” and “onetvb.com”.

The Respondent, Dav Beck, registered the Disputed Domain Name <BILUTVB.COM > on 14 April 2019 for a duration of two years up to 14 April 2021. The Complainant discovered in October 2019 that the Disputed Domain Name was used by the Respondent for setting up an online social community website (“**Respondent’s Website**”) for playing the Complainant’s television programmes to the viewer public. Large volumes of the Complainant’s copyrighted works were being distributed on the Respondent’s website without the Complainant’s prior authorization as can be seen from the screen captures of the Respondents’ Website exhibited at Annex XIV of the Complaint.

On October 3, 2019 and October 9, 2019, the Complainant issued “cease and desist” letters to the Respondent, Internet Services Provider of the Respondent’s Website, DigitalOcean, LLC. (“**DigitalOcean**”) and the Registrar respectively, demanding them to remove or disabling access to the Complainant’s copyrighted works and terminating their services with the Respondent. Neither Respondent, DigitalOcean nor the Registrar has responded to Complainant’s demand.

In May 2020, that Complainant noticed that Respondent had changed the Respondent’s Website’s Internet Services Provider to Long Van System Solution (“**LVSS**”). On May 7, 2020 and May 8, 2020, the Complainant issued “cease and desist” letters to the Respondent, LVSS and the Registrar respectively, demanding them to remove or disabling access to the Complainant’s copyrighted works and terminating their services with the Respondent. Neither the Respondent, LVSS nor the Registrar has responded to Complainant’s demand.

4. Parties’ Contentions

A. Complainant’s Contentions

It is the Complainant’s contention that each of the conditions in Paragraph 4(a) of the Policy is present in the Complaint, namely:

- (i) The Disputed Domain Name is confusingly similar to Complainant's trademark “TVB”;
- (ii) The Respondent has no rights or legitimate interests in the registration of the Disputed Domain name; and
- (iii) The Respondent has registered and used the Disputed Domain Name in bad faith.

Hereunder are the Complainant’s contentions:

“(i) The domain name in dispute is confusingly similar to Complainant’s trademark “TVB”:

The domain name in dispute is “BILUTVB.COM”. By comparing the disputed domain name with Complainant’s registered trademark “TVB”, it clearly illustrates that the disputed domain name “BILUTVB.COM” contains Complainant’s registered trademark “TVB”. The mark “TVB” has been used by Complainant continuously for more than 50 years. Complainant first registered “TVB” as its trademark in Hong Kong in 1992. “TVB” is

currently registered and/or applied for registration by Complainant in over 30 jurisdictions worldwide.

In addition to the mark “TVB”, Complainant and its subsidiaries have also applied and registered numerous trademarks incorporating the essential element of the letters “TVB”. Examples are “TVB8”, “TVBA Value Club”, “TVBJ”, “TVBI”, “TVBVideo”, “TVBUDDY”, “TVBC”, “TVB Europe”, “TVB NETWORK VISION”, “TVB Anywhere” etc. in various jurisdictions and for various services. Details of these registrations and applications are listed in Annex XXI of this Complaint.

Further, Complainant’s group of companies operate and own the following satellite television channels:

- (a) TVBJ – Chinese-language television channel has been distributed in Singapore since 2000;
- (b) TVB8 – Chinese language television channel has been distributed in PRC, Asia and Pacific region since 1998.

Complainant’s subsidiary, TVB (USA) Inc., operates cable and satellite TV services to Chinese speaking audience in USA since 1976.

TVBC has been handling Complainant’s programmes sub-licensing in PRC since 2012. TVBC launched iTVB mobile application in PRC, providing various Complainant’s programmes for users’ viewing.

In such circumstances, Complainant’s name and trademark are well known worldwide. Complainant enjoys trademark rights in the name “TVB” due to the goodwill and reputation accumulated through extensive use, advertising, promotion of the mark since its registration in the early 1990s.

Respondent registered the domain name in dispute on April 14, 2019. The domain name in dispute comprises Complainant’s registered mark “TVB” and is confusingly similar with other Complainant’s trademarks deriving from ‘TVB’, such as “TVBVideo”, “TVB8”, ‘TVBC’, “TVB Europe”, “TVBJ” and “TVB Anywhere”. By setting up various archives, the Website was deliberately created by Respondent with the intention to offer public viewing of Complainant’s programmes without Complainant’s authorization. Printouts of the Website with the archives are attached to this Complaint as Annex XXII.

To conclude, Respondent’s registration of the domain name is a fraudulent act which takes advantage of Complainant’s goodwill and reputation, counterfeiting Complainant’s identity and mislead the public to believe that Complainant and/or its official website, such as www.tvb.com is associated with the domain name in dispute or that Complainant has authorized Respondent purposely and intentionally selected domain name similar to Complainant’s domains and trademarks.

(ii) Respondent has no rights or legitimate interests in the registration of the domain name in dispute

Respondent is not in any way connected, associated or affiliated with Complainant and Complainant has not authorized, endorsed or otherwise permitted Respondent to register the domain name in dispute or use Complainant’s trademark or any variation thereof.

There is no evidence that Respondent has been commonly referred to as the disputed domain name, and there is no reason why Respondent might reasonably be said to have any rights or legitimate interests in registering or using the disputed domain name.

Besides, by offering users to view Complainant's programmes without authorization, Respondent has infringed the copyright and other intellectual property rights of Complainant. Complainant contends that Respondent is not making any legitimate or fair use of the domain name in dispute.

(iii) Respondent has registered and used the domain name in bad faith

Complainant believes that Respondent has registered and used the domain name in dispute in bad faith.

The domain name in dispute was registered in 2019 while Complainant has been widely publicizing "TVB" as its brand name since 1967. Respondent uses the domain name in dispute for the [Respondent's] Website where they provide Complainant's programmes for its users' viewing. Respondent should have intentionally chosen the disputed domain name for its Website with full knowledge of Complainant's business and trademark. It is therefore inconceivable that at the time of registering the disputed domain name Respondent was not aware of Complainant's business and its trademark.

Complainant engages in programme content licensing and distribution business. In particular, Complainant distributes its programme content through its subsidiaries and "myTV Super" service through "MyTV Super Limited" (formerly "**TVB.COM LIMITED**") in Hong Kong. Besides, Complainant has licensed VOD rights of its programmes to www.astro.com.my in Malaysia via TVBI; Complainant has also granted its VOD and on-line streaming rights of its programmes to (a) TVBC for sub-licensing in PRC; and (b) TVBI for its TVB Anywhere and TVB Anywhere+ services. Respondent, by setting up the [Respondent's] Website for its distribution and offers public viewing of Complainant's programme contents online, is in fact using the domain name in dispute in direct competition with Complainant's business.

Respondent's use of the [Respondent's] Website has seriously prejudiced Complainant's commercial interests. Respondent has distracted customers from Complainant, who, instead of buying video products, subscribing VOD/OTT services or visiting online platforms authorized by Complainant, choose to visit the [Respondent's] Website in order to get Complainant's programme contents for free at the [Respondent's] Website. Respondent's use of the [Respondent's] Website has therefore adversely affected Complainant's business and income.

It is obvious that Respondent is riding on the reputation of Complainant and uses the domain name in dispute deliberately to attract Internet users to Respondent's website for commercial benefits. By making use of Complainant's works, and by creating a likelihood of confusion with Complainant's trademarks, Respondent has misled the public to believe that the source, sponsorship, affiliation, or endorsement of Respondent's website or location or of a product or service on Respondent's website or location are associated with Complainant, or with its authorization."

Based on the aforesaid contentions, the Complainant requests that the Disputed Domain Name be ordered to be transferred to the Complainant.

B. Respondent's Contentions

The Respondent did not submit any Response to the Complaint.

5. Discussion and Findings of the Panel

Preliminary issues

Article 14 (a) of the Rules provides that “in the event that a Party, in the absence of exceptional circumstances, does not comply with any of the time periods established by these Rules ..., the Panel shall proceed to a decision on the complaint”. The Panel is satisfied on the record that the written notification of the Complaint was duly served on the Respondent by HKIAC.

Based on the confirmation given by the Registrar, the Panel finds that the language of the proceedings is English pursuant to Article 11(a) of the Rules.

In accordance with Article 15(a) of the Rules, the Panel shall decide the case “on the basis of the statements and documents submitted and in accordance with the Policy, [the] Rules and any rules and principles of law that it deems applicable”.

Substantial issues

The 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

Evidence submitted in the Complaint shows that the Complainant is the proprietor of a large portfolio of “TVB” trademarks registered worldwide, including the following registered in Hong Kong and in Vietnam where the Respondent is based:

Hong Kong

Trademark	Registration No.	Registration Date	Expiry Date	Int'l Class
TVB	199608823AA	1992.06.08	2023.06.08	35,38,41
TVB	1998B11494	1997.05.30	2024.05.30	16
TVB	1999B5699AA	1998.08.06	2025.08.06	18, 28
TVB	303957139	2016.11.09	2026.11.08	9,16,35,38

Vietnam

Trademark	Registration No.	Registration Date	Expiry Date	Int'l Class
TVB	252566	2014.05.30	2024.5.29	9,16,35,38

By a side-by-side textual comparison of the Disputed Domain Name < BILUTVB.COM > with Complainant's registered "TVB" trademark, obviously the entire "TVB" trademark is recognizable as a distinct component of the Disputed Domain Name.

In addition by making an aural comparison of the Disputed Domain Name with Complainant's registered "TVB" trademark, the Panel finds that the additional term "BILU" before the mark "TVB" in the Disputed Domain Name sounds much less prominently than "TVB" phonetically.

The Panel also finds support to the conclusion of confusing similarity based upon the above comparisons between the Disputed Domain Name and the Complainant's "TVB" trademark that from (i) the content of Respondent's Website; (ii) the prominent "TVB" icon appearing on the top of the webpage of this website; (iii) the style of the presentation of this website as "BiluTVB.com"; and (iv) the posting on this website "capture images" of the Complainant's copyrighted works that the Respondent is in fact trading off the Complainant's reputation in television broadcasting, programme production and other related broadcasting activities by registering the Disputed Domain Name on 14 April 2019 and using it for diverting Internet users to the Respondent's Website.

It is well-established that top-level domain ".com" is a required element of every domain name and it does not form part of the comparison for the purposes of Paragraph 4(a)(i) of the Policy.

The Panel therefore finds that the Disputed Domain Name is confusingly similar to the Complainant's registered trademark "TVB" in which Complainant has exclusive rights.

The Panel therefore concludes that Paragraph 4(a)(i) of the Policy has been satisfied by the Complainant.

B) Rights or Legitimate Interests

The Panel is of the view that the Complainant has established a prima facie case that the Respondent has no rights or legitimate interests in the Disputed Domain Name.

The Complainant has not authorized the Respondent to use its registered trademark "TVB" nor to register the Disputed Domain Name; there is no evidence of the Respondent is commonly known by the Disputed Domain Name.

As found by the Panel above, there is evidence that the Respondent is trading off the Complainant's reputation by registering the Disputed Domain Name on 14 April 2019 and using it for diverting Internet users to the Respondent's Website. As such, it is not a bona fide offering of goods or services under the Disputed Domain Name.

As stated in paragraph 2.1 of the WIPO Overview 3.0, once a complainant establishes a *prima facie* case in respect of the lack of rights or legitimate interests of a respondent, the respondent then carries the burden of demonstrating that it has rights or legitimate interests in the disputed domain name. Where the respondent fails to do so, a complainant is deemed to have satisfied Paragraph 4(a)(ii) of the Policy.

In the present case, the Respondent did not respond to the Complaint.

Paragraph 4(c) of the Policy provides that any of the following circumstances, in particular but without limitation, if found by the Panel to be proved based on its evaluation of all evidence presented, shall demonstrate the Respondent's rights or legitimate interests to the domain name for purposes of Paragraph 4(a)(ii):

- (i) before any notice to the Respondent of the dispute, the Respondent's use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services; or
- (ii) the Respondent (as an individual, business, or other organization) has been commonly known by the domain name, even if the Respondent has acquired no trademark or service mark rights; or
- (iii) the Respondent is making a legitimate non-commercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Complainant's assertions and evidence in support of its case that the Respondent has no rights or legitimate interests in the Disputed Domain Name has not been rebutted by the Respondent. The Panel finds none of the circumstances as set out in Paragraph 4(c) is present.

The Panel therefore concludes that the Complainant has established Paragraph 4(a)(ii) of the Policy.

C) Registration and Use in Bad Faith

Paragraph 4(b) of the Policy 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 the Respondent has registered or the Respondent has 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 the Respondent's documented out-of-pocket costs directly related to the domain name; or

(ii) the Respondent has 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 the Respondent has engaged in a pattern of such conduct; or

(iii) the Respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to the Respondent's 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 the Respondent's web site or location or of a product or service on the Respondent's web site or location.

Based on the evidence tendered in the Complaint, the Panel has found that the Respondent is using the Disputed Domain Name to divert Internet users to the Respondent's Website in trading off the Complainant's reputation in television broadcasting, programme production and other related broadcasting activities detrimental to the Complainants' commercial interests..

The Panel finds evidence in support of the contention that the Complainant's "TVB" trademark is well-known in television broadcasting, programme production and other related broadcasting activities not just in Hong Kong but worldwide.

On the totality of all evidence in the present case, the Panel has no difficulty in concluding that:

- (a) The Complainant has been in existence for more than 50 years since its establishment in Hong Kong and is commonly known as "TVB", a television broadcaster, dramas and other entertainment programmes producer. The Complainant's "TVB" trademark first registered in Hong Kong in 1992 has a strong reputation as evidence by its substantial use in Hong Kong and in other countries; and its principal official website "www.tvb.com" first created in 1999 has been in used by the Complainant for more than 20 years. Obviously, the Respondent has intentionally chosen the Disputed Domain Name for launching the Respondent's Website with full knowledge of Complainant's businesses and its "TVB" brand and trademark;
- (b) The Respondent used the Disputed Domain Name to resolve to the Respondent's Website by creating a likelihood of confusion to the consuming public with the Complainant's "TVB" trademark as to the source of the site, thereby misleading the public to believe that the source, sponsorship, affiliation, or endorsement of Respondent's website or of a product or service on Respondent's website are associated with Complainant, or with the Complainant's authorization; and
- (c) The Panel notes that under Article 130 (d) of the Intellectual Property Law (<https://www.wipo.int/edocs/lexdocs/laws/en/vn/vn063en.pdf>), *"registering or possessing the right to use or using a domain name identical with or confusingly similar to a protected trade name or mark of another person, ..., for the*

purpose of possessing the domain name, benefiting from or prejudicing reputation and goodwill of the respective mark, trade name...” is an act of unfair competition in Vietnam where the Respondent is based. As found by the Panel above, the Complainant’s “TVB” trademark is protected under the laws of Vietnam. Taking into account all the facts and circumstances of this case, there is clear evidence to substantiate the Complainant’s claim that by registering the Disputed Domain Name and using it to set up the Respondent’s Website, the Respondent is infringing the Complainant’s intellectual property rights in its copyrighted works and such conduct is prima facie an act of unfair competition under the laws of Vietnam.

Based on the above findings, the Panel concludes that circumstances (iv) of Paragraph 4(b) of the Policy are present; and accordingly, under the Policy as well as the generally accepted principles of bad faith, evidence of bad faith registration and use of the Disputed Domain Name is established in this case.

The Panel therefore finds that the Complainant has established Paragraph 4(a)(iii) of the Policy.

6. Decision

For all the foregoing reasons, in accordance with Paragraph 4(a) of the Policy and Article 15 of the Rules, the Panel orders that the Disputed Domain Name <BILUTVB.COM> be transferred to the Complainant.



Raymond HO
Sole Panelist of the Panel
11 August 2020