



(Hong Kong Office)

ADMINISTRATIVE PANEL DECISION

Case No.	HK-2101524
Complainant:	Tencent Holdings Limited
Respondent:	Domain Admin
Disputed domain name(s):	< tencentsogou.com >

1. The Parties and Contested Domain Name

The Complainant is Tencent Holdings Limited, of P.O. Box 2681 GT, Century Yard, Cricket Square, Hutchins Drive, George Town, Grand Cayman, Cayman Islands.

The Respondent is Domain Admin, of 47 W Polk Street, Chicago, IL 60605, USA.

The domain name at issue is < tencentsogou.com > registered by Respondent with Hosting Concepts B.V. d/b/a Registrar.eu, of Kipstraat 3c-5c, Rotterdam 3011 RR, Netherlands

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2. Procedural History

The Complaint was filed with the Asian Domain Name Dispute Resolution Centre (the “Center”) on 23 August 2021. On the same date, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On 31 August 2021, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name, which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on 1 September 2021, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on 6 September 2021.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”) and the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on 7 September 2021. In accordance with the Rules, paragraph 5, the due date for Response was 27 September 2021. The Respondent did not submit any response. Accordingly, the Center notified the

Respondent's default on 28 September 2021.

The Center appointed Adam Samuel as the sole panelist in this matter on 4 October 2021. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

3. Factual background

The Complainant provides Internet value-added services in China. It promotes its services through its website at its primary domain name <tencent.com>. The Complainant owns a number of registered trademarks in USA for the name TENCENT, including US trademarks 5409861 and 5500137 with registration dates of 27 February 2018 and 26 June 2018 respectively. The Complainant also owns a Hong Kong trademark number 300169506AA for TENCENT with an actual date of registration of 27 September 2004. In July 2020, the Complainant announced that it would be purchasing the remaining shares that it did not already own in the search engine Sogou of which it was already the largest shareholder. This transaction was completed in September 2021.

The Respondent registered the disputed domain name on 16 November 2020.

4. Parties' Contentions

A. Complainant

The Complainant's contentions may be summarized as follows:

- i. The disputed domain name consists of the Complainant's trademark, TENCENT, its business partner's name, Sogou and the generic Top-Level Domain ("gTLD") ".com". The gTLD is irrelevant here because it does not affect the meaning of the disputed domain name and is a standard registration requirement. Since the Complainant's trademark can be recognized within the disputed domain name, the addition of a third party's mark is insufficient in itself to avoid a finding of confusing similarity between the disputed domain and the Complainant's trademark.
- ii. The Respondent is not sponsored by or affiliated with Complainant in any way. The Complainant has not given the Respondent permission, authorization or license to use the Complainant's trademarks in any manner, including in domain names. The Respondent is not commonly known by the disputed domain name, which evinces a lack of rights or legitimate interests.
- iii. The Respondent is using the disputed domain name to redirect internet users to a website that features its domain for sale listing on sav.com for an amount that far exceeds the Respondent's out-of-pocket expenses in registering the domain. Moreover, the Respondent registered the disputed domain name on November 16, 2020, after the Complainant's registration of its TENCENT trademarks.
- iv. The Complainant and its TENCENT trademarks are known internationally, with trademark registrations in numerous countries, including in the United States where the Respondent is based. The Complainant has marketed and sold its goods and

services using this trademark before the Respondent's registration of the disputed domain name.

- v. By registering a domain name that consists of Complainant's TENCENT trademark and its partner's SOGOU trademark, Respondent has created a domain name that is confusingly similar to Complainant and its partner's trademarks, as well as their <tencent.com> and <sogou.com> primary domains. As such, the Respondent has demonstrated a knowledge of and familiarity with Complainant's brand and business. TENCENT and SOGOU are so closely linked and associated with the Complainant and its partner that the Respondent's use of these marks, or any minor variation of them, strongly implies bad faith.
- vi. The Respondent's registration of the disputed domain name shortly after the Complainant announced in September 2020 that it had reached an agreement to buy the remaining shares in Sogou 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 as regards the transaction concerned.
- vii. In addition to the disputed domain name, the Respondent currently holds registrations for over 21,000 domain names including several domain names that misappropriate the trademarks of well-known brands and businesses. This fact demonstrates that the Respondent is engaging in a pattern of cybersquatting/typosquatting, which is evidence of bad faith registration and use of the disputed domain name.
- viii. The Respondent, at the time of the initial filing of the Complaint, had employed a privacy service to hide its identity which serves as further evidence of bad faith registration and use.

B. Respondent

The Respondent did not reply to the Complaint.

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

The disputed domain name consists of the Complainant's trademark, the name of a search engine of which it was the largest shareholder when the disputed domain name was

registered and the gTLD, “.com”. The gTLD is irrelevant here because it does not affect the meaning of the disputed domain name and is a standard registration requirement. The addition of Sogue’s name reinforces the view that the disputed domain is confusingly similar to the Complainant’s trademark, bearing in mind the actual relationship between the two entities and the fact that the Complainant’s purchase of the remaining shares in Sogue had just been announced at the time of the disputed domain name’s registration. For all these reasons, the Panel concludes that the disputed domain name is confusingly similar to the Complainant’s trademark.

B) Rights and Legitimate Interests

The Respondent is not called “tencent”, “sogue” or anything similar. There is no evidence that the Complainant has ever authorized the Respondent to use its trademarks. The Respondent does not appear to have used the disputed domain name for any purpose other than putting the disputed domain name up for sale.

In the absence of any response on this point, the Panel concludes that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

C) Bad Faith

A few months after the Complainant announced its impending purchase of those shares in Sogue that it did not already own, the Respondent registered the disputed domain name which combines the Complainant’s trademark with its soon-to-be fully-owned subsidiary. It is apparent from this that the Respondent must have known of the Complainant’s identity and its relationship, either present or future, with Sogue. The Respondent could have easily searched for and found the Complainant’s US registered trademark before registering the disputed domain name. The Respondent then immediately put the disputed domain name up for sale for US \$280, not a huge sum but still in excess of the Respondent’s out-of-pocket expenses.

These amount to “circumstances indicating that [the Respondent has] registered or [has] acquired the domain name primarily for the purpose of selling... the domain name registration to the complainant ... or to a competitor of that complainant, for valuable consideration in excess of [his] documented out-of-pocket costs”. This is evidence of registration and use in bad faith: UDRP, paragraph. 4(b)(i) of the Policy. This conclusion is reinforced by the fact that the disputed domain name consists of the Complainant’s trademark, with an added name related to the Complainant’s business, and so has no inherent value except in relation to the Complainant and Sogue.

For these reasons, the Panel concludes that the disputed domain name was registered and is being used in bad faith. In the circumstances, there is no need to address the other allegations of bad faith made by the Complainant.

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 <tencentsogue.com> be transferred to the Complainant.

A handwritten signature in black ink, appearing to read "Adam Samuel". The signature is written in a cursive style with a horizontal line underneath it.

Adam Samuel

Dated: 5 October 2021