



(Hong Kong Office)

**ADMINISTRATIVE PANEL DECISION**

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<b>Case No.</b>	<b>HK-2401885</b>
<b>Complainant:</b>	<b>TikTok Ltd.</b>
<b>Respondent:</b>	<b>LA FA</b>
<b>Disputed Domain Name(s):</b>	<b>&lt;tik-tokmall.com&gt; et al</b>

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

The Complainant is TikTok Ltd., of Grand Pavilion, Hibiscus Way, 802 West Bay Road, Grand Cayman, KY1 – 1205, Cayman Islands.

The Respondent is LA FA, of PH Quezon City Quezon City 303 Brooklyn Cubao Quezon City 1106 Metro Manila, Philippines.

The domain names at issue are <tik-tokmall.com>, <tiktok-01.com>, <tiktok-02.com>, <tiktok-03.com>, <tiktok-04.com>, <tiktok-05.com>, <tiktok-01.shop>, <tiktok-02.shop>, <tiktok-03.shop>, <tiktok-04.shop>, <tiktok-05.shop>, <tiktokmg.com>, <tiktokydl.com>, <tiktokyg.com>, <tiktokmg.shop>, <tiktokydl.shop>, <tiktokyg.shop>, <tiktok-svip.com>, <tiktokpro-vip.com>, <tiktokmall-vip.com> (“Disputed Domain Names”), registered by the Respondent with Gname.com Pte. Ltd., of 73 Upper Paya Lebar Road, #06-01c, Centro Bianco, Singapore 534818, Singapore (“Registrar”).

**2. Procedural History**

On 13 April 2023, the Complainant filed a Complaint with 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. The Complainant chose to have a sole panelist to handle the dispute.

On 15 April 2024, the ADNDRC sent to the Complainant by email an acknowledgment of the receipt of the Complaint and transmitted by email to the Registrar the request for registrar verification in connection with the Disputed Domain Name. On 16 April 2024, the Registrar transmitted by email to the ADNDRC its verification response providing, among others, the WHOIS information for the registrant.

On 22 April 2024, the ADNDRC notified the Complainant of the deficiencies in the Complaint. On 24 April 2024, the Complainant filed an amended Complaint. The ADNDRC formally notified the Respondent of the Complaint and the proceeding commenced on 29 April 2024.

No administratively compliant Response has been filed by the Respondent. On 20 May 2024, the ADNDRC informed the Respondent of its default.

On 21 May 2024, the ADNDRC appointed Ivett Paulovics as sole Panelist in this matter. The Panelist accepted the appointment and has submitted a statement to the ADNDRC that she is able to act independently and impartially between the parties.

### **3. Factual background**

The Complainant is TikTok Ltd., an Internet technology company. It operates TikTok, a short-form video sharing platform launched in May 2017. It became the most downloaded application in the US in October 2018. TikTok reached over a billion users worldwide in September 2021 and had over 1.5 billion users as of April 2023.

The Complainant enables users to create and upload short videos. It offers features such as background music and augmented reality effects, live streaming, and users control which features to pair with the content of their self-directed videos. The Complainant serves as a host for the content created by its users. Its services are available in more than 150 different markets, in 75 languages, and has become the leading destination for short-form mobile video. The Complainant has global offices including in Los Angeles, New York, London, Paris, Berlin, Dubai, Mumbai, Singapore, Jakarta, Seoul, and Tokyo.

In 2022, TikTok was the #1 most downloaded application in the US and globally, with 99 million downloads in the US and 672 million downloads globally. Since its launch in the Google Play Store, more than 1 billion users have downloaded the Complainant's app. In the Apple App Store, the TikTok app is ranked "#1 in Entertainment" and #1 among all categories of free iPad apps. It is also one of Apple's featured "Editors' Choice" apps.

The Complainant also has a large Internet presence through its primary website <tiktok.com>. According to the third-party web analytics website SimilarWeb.com, <tiktok.com> had a total of 2.0 billion million visitors in March 2023 alone, making it the 15th most popular website globally and 21st most popular website in the US.

The Complainant, with its affiliate TikTok Information Technologies UK Limited, is the owner of trademark registrations for TIK TOK/TIKTOK (hereinafter referred to as "TIKTOK") across various jurisdictions.

In this case, the Complainant relies on the following registered trademarks:

<b>TRADEMARK</b>	<b>JURISDICTION/ TM OFFICE</b>	<b>REGISTRATION NUMBER</b>	<b>REGISTRATION DATE</b>	<b>CLASSES</b>
TIK TOK	PH / IPOPHIL	1485318	Oct. 21, 2019	9, 25, 35, 38, 41, 42, 45
TIK TOK	US / USPTO	5653614	Jan. 15, 2019	9, 38, 41, 42

TIKTOK (stylized) <b>TikTok</b>	US / USPTO	5974902	Feb. 04, 2020	9, 38, 41, 42
TIKTOK	US / USPTO	5981212	Feb. 11, 2020	9, 38, 41, 42
TIKTOK (stylized) <b>TikTok</b>	US / USPTO	5981213	Feb. 11, 2020	9, 38, 41, 42
TIKTOK (stylized) <b>TikTok</b>	US / USPTO	6847032	Sep. 13, 2022	35
TIKTOK	US / USPTO	6069518	June 2, 2020	45
TIK TOK	UK / UKIPO	00917891401	Nov. 29, 2018	9, 38, 41
TIK TOK	EU / EUIPO	017913208	Oct. 20, 2018	9, 25, 35, 42, 45
TIK TOK	WO / WIPO	1485318	Mar. 19, 2019	9, 25, 35, 38, 41, 42, 45

The above-mentioned marks are collectively referred to as “the Complainant’s trademarks”, “the Complainant’s TIKTOK Trademark” or “the TIKTOK Trademark”.

The TIKTOK Trademark is well-recognized and famous worldwide and in its industry. The Complainant has made significant investment to protect, advertise and promote its trademarks worldwide in the media and on the Internet over the years. As a result of the Complainant’s considerable investment of time, energy and resources in protecting, advertising and promoting its services under the TIKTOK Trademark, it has become well-known to the public and trade as identifying and distinguishing the Complainant exclusively and uniquely as the source of the products and services to which the TIKTOK Trademark is applied.

The Respondent is LA FA, residing in the Philippines.

The Disputed Domain Names were registered on 2024-02-04, 2024-02-21, and 2024-03-11, and resolve to websites featuring the Complainant’s trademarks and mimicking the Complainant’s official website.

#### 4. Parties’ Contentions

##### A. Complainant

The Complainant’s contentions may be summarized as follows:

- i. The Disputed Domain Names fully contain the Complainant’s TIKTOK Trademark.
- ii. The Complainant has no business relations with the Respondent and has not given any permission or authorization to the Respondent to use its TIKTOK Trademark or register the Disputed Domain Names.

- iii. Considered the notoriety of the Complainant and its prior TIKTOK Trademark, the Respondent should have been aware of the Complainant and its well-known mark at the time of registration of the Disputed Domain Names.
- iv. The Respondent is using the Disputed Domain Names to resolve to websites featuring the TIKTOK Trademark and mimicking the Complainant's official website. Therefore, the Respondent by impersonating the Complainant is misleading the relevant public which might believe that the Disputed Domain Names are the official website or closely connected to or licensed by the Complainant.

B. Respondent

The Respondent has not filed any Response.

## 5. Findings

Under paragraph 15(a) of the Rules, the Panel shall decide the Complaint 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 she deems applicable.

The Policy provides, at Paragraph 4(a), that each of three findings must be made in order for the Complainant to prevail:

- i. The Disputed Domain Names are identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- ii. The Respondent has no rights or legitimate interests in respect of the Disputed Domain Names; and
- iii. The Disputed Domain Names have been registered and are being used in bad faith.

If all three elements are met by the Complainant, the domain name registrations are ordered to be transferred to the Complainant. If one or more elements are not met, the Complaint is denied, and the domain name registrations remain intact.

Therefore, the onus of meeting the above threshold is incumbent on the Complainant. The evidentiary standard in UDRP disputes is the "balance of probabilities", meaning that a Party should demonstrate to the Panel's satisfaction that it is more likely than not that a claimed fact is true.

### A) Identical / Confusingly Similar

The first UDRP element functions primarily as a standing requirement. Where a complainant holds a nationally or regionally registered trademark or service mark, this prima facie satisfies the standing requirement of having trademark rights for purposes to initiate a UDRP dispute.

Once a complainant has established to have right in a trademark or service mark, the panel turns to the assessment of identity or confusing similarity of the disputed domain name to the trademark or service mark in which the complainant has rights.

The test for identity or confusing similarity involves comparing the alpha-numeric domain name and the textual components of the relevant mark to assess whether the mark is recognizable within the domain name. When a domain name wholly incorporates the complainant's trademark or at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name is considered confusingly similar. The addition of punctuation marks (e.g., hyphen), numbers, letters or other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) to the complainant's trademark does not prevent a finding of confusing similarity under the first element. The TLD is usually to be ignored for the purpose of determination of identity or confusing similarity between the domain name and the complainant's trademark as it is a technical requirement of the registration. The practice of ignoring the TLD in determining identity or confusing similarity is applied irrespective of the particular TLD, including with regard to new gTLDs.

While not a replacement as such for the side-by-side comparison, the broader case context such as website content trading off the complainant's reputation, may support a finding of confusing similarity.

In this case, the Complainant has established that it has rights in the TIKTOK Trademark for purposes of paragraph 4(a)(i) of the Policy.

In assessing identity or confusing similarity, the Panel finds that the Disputed Domain Names are confusingly similar to the TIKTOK Trademark because they all incorporate the entirety or at least the dominant element of the Complainant's mark, namely the distinctive wording "TIKTOK", combined with:

- <tik-tokmall.com>: a hyphen dividing the element "TIKTOK" in two parts, the generic, descriptive and non-distinctive term "mall", plus the TLD ".com";
- <tiktok-01.com>, <tiktok-02.com>, <tiktok-03.com>, <tiktok-04.com>, <tiktok-05.com>: a hyphen, the numbers "01", "02", "03", "04", "05", plus the TLD ".com";
- <tiktok-01.shop>, <tiktok-02.shop>, <tiktok-03.shop>, <tiktok-04.shop>, <tiktok-05.shop>: a hyphen, the numbers "01", "02", "03", "04", "05", plus the TLD ".shop";
- <tiktokmg.com>, <tiktokydl.com>, <tiktokyg.com>: the letters "mg", "ydl", "yg", plus the TLD ".com";
- <tiktokmg.shop>, <tiktokydl.shop>, <tiktokyg.shop>: the letters "mg", "ydl", "yg", plus the TLD ".shop";
- <tiktok-svip.com>, <tiktokpro-vip.com>, <tiktokmall-vip.com>: a hyphen, the generic, descriptive and non-distinctive terms "svip", "vip", "pro" and "mall", plus the TLD ".com".

These additional punctuation marks, numbers, letters or other generic, descriptive and non-distinctive terms neither affect the attractive power of the Complainant's trademark, nor are sufficient to distinguish the Disputed Domain Names from the TIKTOK Trademark (see WIPO Case D2023-2972 TikTok Ltd. v. benny chen, FENGYANG NETWORK TECHNOLOGY LTD, <tiktok-shop07.com> et al; see also WIPO Case D2023-5116 TikTok Ltd. v. Zhi Yuan Fan, <live-tik-tok.com>).

The confusing similarity between the Disputed Domain Names and the Complainant's trademarks is further supported by the contents of the Respondent's websites, featuring the Complainant's trademarks and mimicking the Complainant's official website.

Therefore, Internet users might erroneously believe that the Disputed Domain Names and any related web services (website, email, etc.,) are operated, sponsored or endorsed by the Complainant.

Accordingly, the Panel finds that the Disputed Domain Names are confusingly similar to the Complainant's TIKTOK Trademark (paragraph 4(a)(i) of the Policy).

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

Under paragraph 4(a)(ii) of the Policy, the complainant has the burden of establishing that the respondent has no rights or legitimate interests in respect of the domain Name. If the 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.

By virtue of paragraph 4(c) of the Policy, 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:

- (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 it has acquired no trademark or service mark rights; or
- (iii) the respondent is making a legitimate noncommercial 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.

In this case, the Panel finds that the Complainant has made out a sufficient prima facie case. The Disputed Domain Names were registered on 2024-02-04, 2024-02-21, and 2024-03-11, well after the registration the Complainant's trademarks. The TIKTOK Trademark is well-known worldwide. The Disputed Domain Names are confusingly similar to the prior and well-known TIKTOK Trademark, since they all incorporate such mark in its entirety or at least a dominant feature of it, combined with punctuation marks, numbers, letters or other generic, descriptive and non-distinctive terms. The Respondent has not been authorized by the Complainant to use the TIKTOK Trademark, whether in a domain name or otherwise. The Disputed Domain Names resolve to websites featuring the Complainant's trademarks and mimicking the Complainant's official website. These factors are sufficient to establish a prima facie case, and move the evidentiary onus under paragraph 4(a)(ii) of the Policy, to the Respondent.

The Respondent has not submitted any Response and, thus, has failed to invoke any of the circumstances, which could demonstrate any rights or legitimate interests in the Disputed Domain Names. Therefore, the Panel determines the dispute on the basis of the available evidence.

The underlying registrant (Respondent) is LA FA, residing in the Philippines. No evidence is available that the Respondent has been commonly known by the Disputed Domain

Names or has acquired any rights in a trademark or trade name corresponding to the Disputed Domain Names.

The Respondent registered the Disputed Domain Names, all incorporating the Complainant's distinctive and prior mark plus additional punctuation marks, numbers, letters or other generic, descriptive and non-distinctive terms, and, thus confusingly similar to the TIKTOK Trademark.

UDRP panels have found that domain names identical or confusingly similar to a complainant's trademark carry a high risk of implied affiliation. A domain name consisting of a trademark plus an additional term at the second- or top-level is seen as tending to suggest sponsorship or endorsement by the trademark owner. Thus, UDRP panels have largely held that such composition cannot constitute fair use.

The Complainant has provided documentary evidence showing that, before any notice of the dispute, the Respondent had used the Disputed Domain Names to impersonate the Complainant and redirect Internet users to websites featuring the Complainant's trademarks and mimicking the Complainant's official website. There is no disclaimer on the websites associated with the Disputed Domain Names that makes it clear to Internet users visiting the Respondent's websites that they are not operated by the Complainant.

Panels have categorically held that the use of a domain name for illegal activity (including unauthorized account access/hacking, impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent.

The Panel is, therefore, unconvinced that, before any notice of the dispute, the Respondent used or prepared to use, the Disputed Domain Names or a name corresponding to the Disputed Domain Names in connection with a bona fide offering of goods or services or is making a legitimate non-commercial or fair use of the Disputed Domain Names, without intent for commercial gain to misleadingly divert consumers or to tarnish the TIKTOK Trademark.

Having considered the above circumstances, in absence of any relevant evidence proving the Respondent's rights or legitimate interests in respect of the Disputed Domain Names, the Panel finds that the Respondent has registered and is using the Disputed Domain Names to target the Complainant's widely-known TIKTOK Trademark with the intent for commercial gain to misleadingly divert consumers or to tarnish that mark.

The Panel is satisfied that the Complainant has met the second requirement of paragraph 4(a) of the Policy and finds that the Respondent lacks rights or legitimate interests to the Disputed Domain Names.

### **C) Bad Faith**

For purposes of paragraph 4(a)(iii) of the Policy, 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 the respondent's domain name in bad faith:

- (i) circumstances indicating that the respondent has registered or has acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name 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 its 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 it 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 its 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 its web site or location or of a product or service on its web site or location.

In this case, the Panel finds that Disputed Domain Names have been registered and are being used in bad faith by the Respondent for the following reasons.

The Respondent concealed its identity by using privacy or proxy service upon registration of the Disputed Domain Names.

UDRP panels agree that, although the use of privacy or proxy service is not in and of itself an indication of bad faith, the circumstances and the manner in which such service is used may however impact a panel's assessment of bad faith.

The TIKTOK Trademark predates the registration of the Disputed Domain Names. The Complainant has provided sufficient evidence to prove that its TIKTOK Trademark is widely well-known all over the world. All Disputed Domain Names are confusingly similar to the TIKTOK Trademark, because they contain the Complainant's prior mark in their string, coupled with punctuation marks, numbers, letters or other generic, descriptive and non-distinctive terms, which are immaterial to affect the recognizability of the Complainant's well-reputed trademarks. The Panel has, therefore, no hesitation in finding that the Respondent has registered the Disputed Domain Names with knowledge of, and intention to target the Complainant and to exploit the reputation of the Complainant's TIKTOK Trademark by diverting traffic away from the Complainant's official website.

UDRP panels have also consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names 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.

Having the Respondent registered 20 domain names, the Panel finds that the Respondent is engaged in a pattern of conduct and has registered the Disputed Domain Names in order to prevent the Complainant from reflecting its mark in corresponding domain names (paragraph 4(b)(ii) of the Policy).

Finally, the Dispute Domain Names are being used to impersonate the Complainant and redirect Internet users to websites having the look and feel of the Complainant's website.

Therefore, the Panel finds that, by using the Domain Name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its web site or other on-line location, by creating a likelihood of confusion with the TIKTOK Trademark



as to the source, sponsorship, affiliation, or endorsement of its web site or location or of a product or service on its web site or location (paragraph 4(b)(iv) of the Policy).

Looking at the totality of the circumstances the present case, the Panel finds that the Complainant has discharged the burden of proof to show that the Disputed Domain Names have been registered and are being used in bad faith (paragraph 4(a)(iii) of the Policy).

The Disputed Domain Names are, therefore, to be transferred to the Complainant.

## 6. Decision

For all the reasons above, the Complaint is accepted, and the domain names <tiktokmall.com>, <tiktok-01.com>, <tiktok-02.com>, <tiktok-03.com>, <tiktok-04.com>, <tiktok-05.com>, <tiktok-01.shop>, <tiktok-02.shop>, <tiktok-03.shop>, <tiktok-04.shop>, <tiktok-05.shop>, <tiktokmg.com>, <tiktokydl.com>, <tiktokyg.com>, <tiktokmg.shop>, <tiktokydl.shop>, <tiktokyg.shop>, <tiktok-svip.com>, <tiktokpro-vip.com>, and <tiktokmall-vip.com> are to be transferred to the Complainant.



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Ivett Paulovics  
Panelist

Dated: 3 June 2024