

ADMINISTRATIVE PANEL DECISION

Tencent Holdings Limited v. He Huang, Working Venture Capital Inc.
Case No. DAI2023-0024

1. The Parties

The Complainant is Tencent Holdings Limited, Cayman Islands, represented by Kolster Oy Ab, Finland.

The Respondent is He Huang, Hong Kong, China, Working Venture Capital Inc., British Virgin Islands,¹ represented by 企发发知识产权服务有限公司 (QIFAFAPA IP Services Limited), China.

2. The Domain Name and Registrar

The disputed domain name <tencent.ai> is registered with auction_ai (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 6, 2023. On September 6, 2023, the Center transmitted by email to the .AI Registry a request for registrar verification in connection with the disputed domain name. On September 6, 2023, the .AI Registry transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

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

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on September 25, 2023. In accordance with the Rules,

¹ Although the registrant of the disputed domain name is He Huang, the “RegistrantStreet” field of the current Whois record references an entity named Working Venture Capital Inc. of the British Virgin Islands. The Response indicates that this entity is the named registrant’s corporate vehicle, which is engaged in the coin collection business described in this Decision, and which contracted for the building of the related website. The Response adds, “The disputed domain name was auctioned for the Respondent’s company, Working Venture Capital, Inc.”. The Panel considers that the named registrant of the disputed domain name and its corporate vehicle may essentially be treated as one and the same for present purposes. Accordingly, the Panel has included Working Venture Capital Inc. as a Respondent together with the named registrant in accordance with its general powers under the Rules, paragraph 10. They are referred to collectively as “the Respondent” throughout this Decision.

paragraph 5, the due date for Response was October 15, 2023. On October 14, 2023, the Center received an email communication from the Respondent requesting four calendar day extension for response under paragraph 5(b) of the Rules, which was granted by the Center in accordance with the Center's communications to the Parties on the same date. The Response was filed with the Center on October 19, 2023.

The Center appointed Andrew D. S. Lothian, Peter Burgstaller, and W. Scott Blackmer as panelists in this matter on November 13, 2023. The Panel finds that it was properly constituted. Each member of 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.

On November 23, 2023, the Panel issued Procedural Order No. 1 to the Parties. Said Procedural Order invited the Complainant to specify its relationship to the owner of Chinese Registered Trademark No. 1752676, and the Parties to comment upon the fact that the Respondent was noted to be the registrant of some 25 additional ".ai" domain names, and that in 2013 the domain name <wechat.mobi> was registered to an entity which is linked to the Respondent, all as further described in the factual background section below.² The due date for Decision was extended to December 12, 2023. Both Parties replied to the Procedural Order on November 30, 2023. On December 1, 2023, the Respondent made a further comment.

4. Factual Background

The Complainant is a global Internet and technology company established in 1998 and headquartered in Shenzhen, Guangdong, China. The Complainant provides Internet, mobile and telecommunication services and products, including in entertainment, artificial intelligence, and technology in China and globally. Among the Complainant's most popular products are QQ instant messenger, social media application WeChat, games platform WeGame, Tencent Games, Tencent Video, Tencent News, and Tencent Sports.

In its own right, or via an affiliate, the Complainant owns a variety of TENCENT trademarks including, for example, Chinese Registered Trademark No. 1752676, registered on April 21, 2002, in class 9, European Union Registered Trademark No. 006033773, registered on November 18, 2008, in classes 9, 38, 41, and 42, and United States of America Registered Trademark No. 5980417, registered on February 11, 2020, in classes 9, 16, 35, 38, 41, 42, and 45.

Based upon the Complainant's evidence, the TENCENT brand is widely known worldwide, being ranked at No. 1 of 2021 Brandz Top 100 Most Valuable Chinese Brands, No. 5 of 2022 Brandz Top 100 Most Valuable Global Brands and No. 37 of the Fortune Global 500 (2023).

The disputed domain name was registered on December 16, 2017, and was acquired at auction by the Respondent on July 5, 2022.

According to the Respondent's screenshot, the website intended to be associated with the disputed domain name (and previously associated with the domain name <71.ai>) appears to consist of a single page that is headed "Anguilla Coins Collection". The page notes that Anguilla uses the East Caribbean Dollar but has issued collector coins in its own name. Eight Anguilla coins are listed on the page as though for sale, all with a price of "0.00" and a heading of "Out of Stock", with denominations ranging from 100 to 0.5 dollars. A side heading states "Ten Cent Coins / Anguilla Coins / Contact Email" above which is an image of an Anguillan ten dollar coin (XCD 10).

² The Panel noted from the Whois record of the disputed domain name that it appeared to have been acquired at auction. The Panel then conducted independent research into publicly available sources, namely (i) examining the .ai auction procedure described at "<http://whois.ai/auctionfaq.html>"; and (ii) identifying the domain names noted in the factual background section via (a) expired .ai domain auctions at "auction.whois.ai", and (b) a reverse Whois lookup relating to the Respondent. The outcome of this research was put to the Parties in Procedural Order No. 1. [WIPO Overview 3.0](#), section 4.8.

The Panel identified from independent research that the Respondent is the registrant of at least the following numerical “.ai” domain names, acquired at the same auction as <71.ai> (May 2, 2022): <12.ai>, <23.ai>, <25.ai>, <26.ai>, <27.ai>, <30.ai>, <31.ai>, <34.ai>, <38.ai>, <43.ai>, <53.ai>, <54.ai>, <61.ai>, <62.ai>, <63.ai>, <65.ai>, <67.ai>, <73.ai>, <75.ai>, <79.ai>, <80.ai>, <82.ai>, <87.ai>, <93.ai>, and <96.ai>.

The Panel also noted from publicly available historic Whois records that, in 2013, the domain name <wechat.mobi> was registered to an entity which is linked to the Respondent by name, registrant country, telephone number, and registrant email address when compared to the Whois record of the disputed domain name produced by the Complainant.

5. Parties’ Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that the TENCENT trademark is well-known and notes that the disputed domain name consists entirely of such trademark. The Complainant submits that it is therefore inconceivable that the Respondent would not have been aware of the Complainant’s trademark when registering the disputed domain name, or that there would be any legitimate use for the disputed domain name. The Complainant notes that the disputed domain name does not resolve to an active website, and is therefore not used for a *bona fide* offering of goods or services. The Complainant asserts that the passive holding of a domain name may amount to bad faith when it is difficult to imagine any plausible future active use of the disputed domain name by the Respondent that would be legitimate and not infringing the Complainant’s well-known mark.

B. Complainant’s response to Procedural Order No. 1

The Complainant confirms that Tencent Technology (Shenzhen) Co, Ltd. is affiliated with the Complainant and that, if the Panel deems it necessary for the admissibility of the trademark in question, said company will join the Complaint.

C. Respondent

The Respondent contends that the Complaint should be denied. Notably, the Respondent contends that the disputed domain name should be compared in its entirety to the Complainant’s mark, inclusive of the Top-Level Domain (“TLD”), and that it is not thereby confusingly similar. The Respondent also notes that Chinese Registered Trademark No. 1752676 is owned by a third party, Tencent Technology (Shenzhen) Co., Ltd., and submits that this should not be used as evidence in this case. The Respondent goes on to assert that the disputed domain name is composed of the words “ten cent”, which is a common combination in English whereby “10 cents equals 1 dollar” and is a general term used in transactions, adding that the TLD “.ai” translates to the word “love” in Chinese, while “ten cent” connotes “perfect” or “absolute perfection”, such that the disputed domain name can be interpreted as “absolute (or perfect) love”.

The Respondent explains that it has an interest in the life of the operator of the “.ai” domain name registry (said operator himself having a background in digital money) and has established a business named “Working Venture Capital Inc.” nearby, in order to seek investment opportunities in the Eastern Caribbean. The Respondent states that it set up its website “TEN-CENT COINS Anguilla Coins Collection” to showcase and collect historic Anguillan coins, and for coin enthusiasts to purchase these. According to the Respondent, the disputed domain name was acquired at auction for said coin collection business.

The Respondent notes that its coin website is live and asserts that it had completed the website construction before receiving the Complaint, having paid for two years' hosting from April 8, 2022. It adds that on November 1, 2022, it entered into a website design agreement and paid a web design fee of USD 30,000, producing the corresponding agreement. The Respondent states that the original domain name choice of its website was <71.ai>, "meaning 1971 was the last year Anguilla issued its collector coins before coin unification of the East Caribbean community". The disputed domain name was purchased at auction on July 5, 2022, "to better align with the website's primary business, accurately establish the collector coin collection platform, and meet users' needs".

The Respondent points out that it and the Complainant operate in different industries and in different regions, adding that it has not used the disputed domain name to mislead consumers or to tarnish the Complainant's trademark. It adds that it acquired the disputed domain name in good faith for fair consideration with no malicious intent. The Respondent asserts that there is no evidence of any attempts by it to sell the disputed domain name to the Complainant, nor any other acts stipulated by paragraph 4(b) of the Policy. The Respondent suggests that the Complainant's intent is to make a Reverse Domain Name Hijacking attempt to seize the disputed domain name.

D. Respondent's response to Procedural Order No. 1

The Respondent's two-digit ".ai" domain names are unrelated to the current dispute. These domains are recognized globally as high-value, generic characters. This is reflected in the ".AI" Terms and Conditions, which restrict challenges under the UDRP against domains with one, two or three characters before ".ai" unless the complainant possesses similar domains in at least three out of five specified TLDs. This policy underlines the generic nature of such domains and affirms the Respondent's legitimate interest in their registration. The historical registration of <wechat.mobi>, over a decade ago, is irrelevant to the present case. The significant time lapse since this registration highlights its non-impact on the current dispute, distinguishing it from the current issues under consideration. The arguments and evidence presented demonstrate the legitimacy of the Respondent's actions. The Respondent objects to the Complainant's proposal and the introduction of irrelevant evidence and arguments. The Complainant should withdraw the Complaint, or it should be dismissed by the Panel.

6. Discussion and Findings

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

Based on the available record, the Panel finds the Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1. The Panel accepts the Complainant's submission in response to Procedural Order No. 1 that the owner of Chinese Registered Trademark No. 1752676, Tencent Technology (Shenzhen) Co., Ltd., is an entity that is affiliated with the Complainant. The Panel determines that it is not necessary for the latter entity to join the Complaint. A trademark owner's affiliate such as a subsidiary of a parent or of a holding company, or an exclusive trademark licensee, is considered to have rights in a trademark under the UDRP for purposes of standing to file a complaint. [WIPO Overview 3.0](#), section 1.4.

The Panel finds the entirety of the mark is reproduced within and is alphanumerically identical to the Second-Level Domain of the disputed domain name. Accordingly, the disputed domain name is identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7. While the Respondent suggests that the mark should be compared to the entirety of the disputed domain name, inclusive of the TLD, the TLD is typically viewed as a standard registration requirement and as such is disregarded under the first element

confusing similarity test. [WIPO Overview 3.0](#), section 1.11. In any event, even if the TLD were to be included in the comparison exercise along with the Second-Level Domain, the Complainant's trademark would remain fully recognizable therein and would thereby pass the test for confusing similarity.

Based on the available record, the Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

While the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. As such, where a 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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the record, the Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Complainant focuses on the fact that its trademark is well-known and provides suitable evidence of its reputation, adding that it is inconceivable that the Respondent would not have been aware of this when registering the disputed domain name. The Complainant also notes that the disputed domain name is not being used for a *bona fide* offering of goods or services.

The burden of production, therefore, shifts to the Respondent to bring forth evidence of any rights or legitimate interests which it might have in the disputed domain name. The essence of the Respondent's case is that it has established a website for showcasing and collecting Anguilla collector coins, allowing enthusiasts to purchase, trade and transfer these, and that the disputed domain name was registered for use in association with that website, constituting demonstrable preparations to use it in connection with a *bona fide* offering of goods and services before any notice of the dispute (paragraph 4(c)(i) of the Policy).

The Respondent provides supporting evidence for its alleged venture, namely (1) an invoice dated April 8, 2022 for hosting services covering the two year period from April 8, 2022 to April 8, 2024; (2) an invoice dated July 5, 2022 in respect of the purchase of the disputed domain name for the sum of USD 888; (3) a website design agreement dated November 1, 2022 between the Respondent's corporate entity and a third party with a London address whereby the third party will develop the "Ten Cent Coins - Anguilla Coins Collection" project for a fee of USD 30,000; (4) wire transfer details dated November 7, 2022 showing payment by the Respondent's corporate entity to the third party (now with an address in Hong Kong, China) of the sum of USD 30,000; and (5) a website screenshot dated October 19, 2023 for the said Anguilla Coins Collection site at a URL that references the domain name <71.ai>.

On the face of the documents, the Respondent appears to have made plans for its coin collecting website commencing in April 2022, and its intended use of the disputed domain name is suggested at least in part to be connected to its dictionary meaning. However, given the fame and reputation of the Complainant's mark, which the Respondent does not seek to challenge, and the fact that the disputed domain name is an exact match for it in the second level, carrying a high risk of implied affiliation ([WIPO Overview 3.0](#), section 2.5.1) the Panel must determine whether the Respondent's plans are genuine or have merely been created as a pretext for cybersquatting.

In the first instance, the Panel is troubled by the timeline of events which the Respondent puts forward. The Respondent's initial action regarding its business proposition was to buy two years' worth of hosting in early April 2022. This seems a curious choice of first step. At that point, it had no domain name for the venture and did not purchase <71.ai> until the conclusion of the auction on May 2, 2022 (along with all the other numerical ".ai" domain names listed in the factual background section). The Respondent did not contract for the development of the website until November 2022, by which time it had already lost over half a year's hosting.

The website which the Respondent puts forward was allegedly created in connection with <71.ai>, yet the disputed domain name had already been acquired at auction by July 5, 2022, some four months before the Respondent's web development contract was entered into. It is not clear to the Panel why <71.ai> had any relevance to the project at all by the time that the Respondent turned its mind to web development, given that it already owned the disputed domain name. Indeed, the web development agreement references the "Ten Cent" title of the website, matching the disputed domain name, and mentions nothing of 71 or <71.ai>.

It is not only the timeline that is troubling to the Panel. The Respondent initially stated that the relevance of the <71.ai> domain name was the importance of the year 1971 to Anguillan coins (this itself not being independently evidenced and merely the subject of assertion). However, the Panel identified that the Respondent did not just acquire this particular domain name but seems to have acquired every possible two character numerical ".ai" domain name that it could win at auction at the relevant time. This tends to suggest that the Respondent is a domain name speculator, albeit the Panel does not find that the numerical domain names give any indications of cybersquatting themselves. This does however suggest that the assertion that one of these domain names was selected for the Respondent's website because it happened to represent an important year for the Anguillan coinage is more likely to have been reverse engineered rather than genuine.

What does provide an indication of cybersquatting, and indeed of direct targeting of the Complainant's rights specifically, is the fact that the Respondent held the domain name <wechat.mobi> for a period of time in 2013, WECHAT being one of the Complainant's most popular products. The Respondent does not deny holding this domain name and simply asserts that the fact that it was held a long time ago means that it should be disregarded. In the Panel's view, this fact cannot be overlooked merely because of the passage of time. It suggests the Respondent's willingness to register a domain name that targets a well-known trademark, and a mark of the present Complainant at that. In effect, the Respondent asks the Panel to believe that, while it appears to have targeted the Complainant and its rights ten years ago, the disputed domain name was acquired for a genuine coin collecting project that has nothing to do with the Complainant or its rights despite being an exact match for the Complainant's corporate name and trademark.

The Panel is similarly unconvinced by the Respondent's web development arrangements. Despite a significant sum of money being allegedly involved in the project, the web development agreement is suspiciously vague to an extent that would be very unusual for a real project. For example, there are absolutely no milestones specified regarding the project development, there is no reference to design documents or functional specifications, and no ultimate due date for delivery. On the other hand, the Respondent binds itself to pay USD 30,000 "for the entire scope of the project" within 30 days of entering into the agreement.

The Panel emphasizes here that it is not assessing the quality of the Respondent's business decisions surrounding its organization of hosting and web development. The Respondent is free to make good, bad or indifferent business decisions. However, the fact that the arrangements are, to say the least, atypical of a normal *bona fide* business, forms part of a picture as to the genuineness or otherwise of the Respondent's demonstrable preparations to use the disputed domain name. Set against these curious anomalies in the Respondent's evidence is the fact that the Complainant happens to operate one of the most valuable and well-known Chinese brands. The Respondent has a Hong Kong, Chinese connection. The Respondent has targeted the Complainant in the past.

Finally, the Panel is unconvinced by the Respondent's unevidenced submissions regarding the alleged translation of the ".ai" domain name as "love" in Chinese, while "ten cent" is said to have a connotation of "perfect" or "absolute perfection", so that the whole combination of the disputed domain name represents "perfect love". This seems to the Panel to be a somewhat transparent attempt to shore up the name of the allegedly genuine coin collecting business. In effect, it undermines it. Either the Respondent selected the disputed domain name because it was a reference to a particular denomination in the Anguillan coinage or it did not. On that subject, the Respondent does not help itself by stating that "10 cents is a common combination in English where 10 cents equals one dollar". Multiple online English dictionaries note that a "cent" is typically defined as a hundredth, not a tenth, of a dollar or other decimal currency unit, from the Latin *centum*, hundred. This is not an error that an aspiring numismatist who is investing USD 30,000 in its business would be expected to make. Furthermore, no Anguilla "ten cent" denomination coin appears on the Respondent's website, and the Respondent furnishes no evidence that such coins were ever issued, whether as collector coins or otherwise.

In all of these circumstances, the Panel finds on the preponderance of the evidence that the Respondent is not making and has not made demonstrable preparations to use the disputed domain name in connection with a *bona fide* offering of goods and services, and that the alleged coin collecting website is more probably than not a pretext for cybersquatting.

The Respondent has not rebutted the Complainant's *prima facie* showing.

Based on the available record, the Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular but without limitation, that if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, the Panel notes that the Respondent acquired the disputed domain name at auction on July 5, 2022. By this time, the Complainant's mark and brand was well-known and had recently been ranked at No. 1 of the Top 100 Most Valuable Chinese Brands of 2021. Consequently, the Complainant's brand was likely to resonate strongly with a person based in Hong Kong, China, such as the Respondent. Indeed, the Complainant's WeChat brand has evidently resonated with the Respondent in the past and it has offered no explanation as to why it registered a corresponding domain name, simply citing the passage of time as rendering this irrelevant to the present matter. As noted in the preceding section, the Respondent's reasons for acquiring the disputed domain name in connection with a coin collecting business do not stand up to close scrutiny. Finally, the Respondent admittedly speculates in high value domain names, albeit that the Respondent would argue that it only speculates in generic names.

In all of these circumstances, the Panel considers it more probable than not that the Respondent registered the disputed domain name with the primary intent of selling it to the Complainant for an amount in excess of its out of pocket costs as anticipated by paragraph 4(b)(i) of the Policy. The Panel concludes that the Respondent sought to disguise its intent by constructing a pretextual coin collecting business so that it would have a plausible explanation that would avoid the thrust of the Policy should the Complainant approach it. The Respondent would then be in a position to fix a high price for the transfer of the disputed domain name. This business, however, the Panel finds to be merely a pretext for the Respondent's cybersquatting and in fact supportive of the notion that the disputed domain name was acquired and has been used by the Respondent in bad faith.

Based on the available record, the Panel finds the third element of the Policy has been established.

D. Reverse Domain Name Hijacking (RDNH)

Based on the outcome of the case, there is no need to address the Respondent's Reverse Domain Name Hijacking claim against the Complainant.

7. 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 <tencent.ai> be transferred to the Complainant.

/Andrew D. S. Lothian/

Andrew D. S. Lothian

Presiding Panelist

/Peter Burgstaller/

Peter Burgstaller

Panelist

/W. Scott Blackmer/

W. Scott Blackmer

Panelist

Date: December 12, 2023