

ADMINISTRATIVE PANEL DECISION

Illia Pustovit v. Tatiana Borodina
Case No. D2024-3803

1. The Parties

The Complainant is Illia Pustovit, Ukraine.

The Respondent is Tatiana Borodina, United States of America (“United States”).

2. The Domain Name and Registrar

The disputed domain name <ssstik.live> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 18, 2024. On September 18, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 19, 2024, the Registrar 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, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 15, 2024. The Response was filed with the Center on October 14, 2024.

The Center appointed Assen Alexiev as the sole panelist in this matter on October 25, 2024. 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.

4. Factual Background

The Complainant operates the website at the domain name <ssstik.io>, registered on November 20, 2020, where it offers free TikTok video download services.

The Complainant is the owner of the figurative United States  **SSSTIK** trademark with registration No. 7084349, registered on June 20, 2023, for goods and services in International Classes 9 and 42, with claimed date of first use in commerce on June 10, 2020 (the “SSSTIK trademark”).

The disputed domain name was registered on September 8, 2022. It currently redirects to the website at the domain name <ttdown.app>, which displays the header “*TikTok Downloader. Fast. Free. Unlimited. TikTok Download*” and offers free TikTok video download services. At the time of filing of the Complaint, the disputed domain name resolved to the website at “www.ssstik.live”, which displayed the header “*SSSTIK TikTok Downloader*” and similarly offered free TikTok video download services.

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.

The Complainant states that the disputed domain name is confusingly similar to the SSSTIK trademark, because it incorporates the trademark in its entirety.

According to the Complainant, the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant submits that it has used the SSSTIK brand name in connection with its services since November 2020, that the Respondent is not commonly known by the disputed domain name, there is no relationship between the Parties, and the Complainant has not licensed the Respondent to use the SSSTIK trademark or any domain names incorporating the trademark. The Complainant maintains that the Respondent is not using the disputed domain name in connection with a bona fide offering of goods or services and is not making a legitimate noncommercial or fair use of the disputed domain name, because the disputed domain name resolves to a website that contains pay-per-click (“PPC”) links.

The Complainant contends that the disputed domain name was registered and is being used in bad faith. It notes that it has been creating mobile apps and websites since November 2020. According to the Complainant, the disputed domain name can be misleadingly associated with the Complainant’s trademark, because the associated website functions as a video downloader. The Complainant alleges that the Respondent created the disputed domain name in an attempt to appear related to the Complainant, and the PPC links on the associated website show the Respondent’s intention to attract Internet users for commercial gain.

B. Respondent

The Respondent contends that the Complainant has not satisfied all three of the elements required under the Policy for a transfer of the disputed domain name.

The Respondent maintains that the disputed domain name does not infringe upon the Complainant’s rights, but reflects the “descriptive nature” of the services offered by the Respondent. According to the Respondent, the term “ssstik” is widely used in relation to video download services, particularly for content from social media platforms, and can reasonably be seen as an abbreviation related to TikTok services or video downloads, making it inherently descriptive rather than distinctive. According to the Respondent, the use of a domain name composed of what it refers to as “generic terms”, such as “sss,” “tik,” and “live” should not be restricted, because generic terms like these must remain available for legitimate use by businesses operating in this industry. The Respondent maintains that the fact that the Complainant has registered a

trademark consisting of generic terms does not grant it the right to prevent others from using similar domain names, especially given that many other companies hold similar trademark registrations for “sss” and “tik” in International Classes 9 and 42. The Respondent points out that it has been operating in this business over the past seven years, well before the Complainant’s alleged rights over the SSSTIK trademark. According to the Respondent, the Complainant’s claim that the disputed domain name is identical or confusingly similar to its trademark fails to recognize the descriptive and non-exclusive nature of the term “ssstik”, which is not solely associated with the Complainant’s business.

The Respondent states that it has established a legitimate business under the disputed domain name, providing video-related services over the past seven years. It maintains that it offers bona fide services under the disputed domain name, that it has made significant investments in building a reputable business under the “ssstik” name, which directly reflects the nature of the services provided. The Respondent submits that its legitimate interest is further supported by the fact that the disputed domain name directly relates to the Respondent’s business, and there is no evidence of bad faith in the registration of the disputed domain name. According to the Respondent, prior to any notice of the dispute, there is clear evidence of the Respondent’s use of the disputed domain name, or a corresponding name, in connection with a bona fide offering of goods or services. The Respondent adds that it has been commonly known by the disputed domain name, even if it has not acquired formal trademark or service mark rights. In the Respondent’s view, the continuous use of the disputed domain name to provide well-known video downloading services demonstrates the Respondent’s good faith in operating the disputed domain name. According to the Respondent, the Complainant has failed to provide clear evidence that the SSSTIK trademark is widely recognized and has not proven any significant reputation attached to this trademark.

The Respondent states that it has registered and is using the disputed domain name in good faith, as part of its established business in the video downloading industry. The Respondent points out that the disputed domain name has not been used to divert customers away from the Complainant or to compete unfairly. It maintains that it has consistently used the disputed domain name for bona fide services, reflecting the descriptive nature of the term “ssstik”. The Respondent notes that the Complainant has provided no compelling evidence to suggest otherwise and has failed to show that the Respondent’s use of the disputed domain name is not legitimate and in good faith. According to the Respondent, the Complainant attempts to unfairly benefit from a generic term, and by attempting to seize control of the disputed domain name, it is acting in bad faith, seeking to disrupt the Respondent’s long-established business.

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.

The Complainant has shown rights in respect of the SSSTIK trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the SSSTIK trademark is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical to the SSSTIK trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

The Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Since the Complainant has failed to establish that the disputed domain name was registered in bad faith, there is no need to address the issue of rights and legitimate interests.

C. Registered and Used in Bad Faith

The evidence in the case file as presented does not indicate that the Respondent's aim in registering the disputed domain name was to profit from or exploit the Complainant's SSSTIK trademark.

The Panel finds that the Respondent did not register the disputed domain name in bad faith targeting of the Complainant or its trademark rights because the Complainant had no trademark rights at the time that the Respondent registered the disputed domain name. [WIPO Overview 3.0](#), section 3.8.1.

The disputed domain name was registered on September 8, 2022, while the Complainant's SSSTIK trademark application was published on April 4, 2023, and the trademark was registered on June 20, 2023. Both of these dates are after the registration of the disputed domain name. The trademark has a claimed date of first use in commerce on June 10, 2020. As however noted in *Dow Jones & Company, Inc. v. Idea Studios LLC dba Envent*, WIPO Case No. [D2009-1033](#), and *Franki Global Inc. v. Privacy service provided by Withheld for Privacy ehf / Golden Dream, The Stay Gold Co / Samantha Jurashka*, WIPO Case No. [D2021-2901](#), the date of first use in commerce claimed on a trademark application is of limited evidentiary value in administrative proceedings brought under the Policy. For the purposes of the present proceeding, this date amounts to a mere assertion which would still require to be suitably evidenced. Here, the Complainant has not submitted any evidence about its use of the SSSTIK trademark at any point in time prior to the date when it was published as an application or prior to its registration as a trademark, and a simple Internet search for the term "ssstik" shows its use by various third parties, where the use of the term is in relation to TikTok video download services. In these circumstances, there is no support for a finding that the Complainant's trademark had reputation at the time when the disputed domain name was registered, and that the Respondent knew of this trademark when he registered the disputed domain name.

As discussed in section 3.8.2 of the [WIPO Overview 3.0](#), in certain limited circumstances where the facts of the case establish that the respondent's intent in registering the disputed domain name was to unfairly capitalize on the complainant's nascent (typically as yet unregistered) trademark rights, panels have been prepared to find that the respondent has acted in bad faith. Such scenarios include registration of a domain name: (i) shortly before or after announcement of a corporate merger, (ii) further to the respondent's insider knowledge (e.g., a former employee), (iii) further to significant media attention (e.g., in connection with a product launch or prominent event), or (iv) following the complainant's filing of a trademark application. In the present case however, the Complainant does not claim the existence of any of the above circumstances, and there is no evidence in the case file that show that any of them was in place when the disputed domain name was registered.

Considering all the above, the Panel concludes that it has not been established that the Respondent's aim in registering the disputed domain name was to profit from or exploit the Complainant's SSSTIK trademark.

The Panel therefore finds that the third element of the Policy has not been established.

7. Decision

For the foregoing reasons, the Complaint is denied.

/Assen Alexiev/

Assen Alexiev

Sole Panelist

Date: November 8, 2024