

ADMINISTRATIVE PANEL DECISION

Vietnam Technological and Commercial joint stock Bank aka ngan hang
thuong mai co phan ky thuong viet nam (Techcombank) v. Domain
Administrator, Fundacion Privacy Services Ltd
Case No. D2022-0022

1. The Parties

Complainant is Vietnam Technological and Commercial joint stock Bank aka ngan hang thuong mai co phan ky thuong viet nam (Techcombank), Viet Nam, represented by Bross & Partners, Viet Nam.

Respondent is Domain Administrator, Fundacion Privacy Services Ltd, Panama.

2. The Domain Name and Registrar

The disputed domain name <techcombank.com> is registered with Media Elite Holdings Limited dba Register Matrix (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on January 4, 2022. On January 5, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 12, 2022, the Registrar transmitted by email to the Center its verification response confirming that 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 Respondent of the Complaint, and the proceedings commenced on January 19, 2022. In accordance with the Rules, paragraph 5, the due date for Response was February 8, 2022. Respondent did not submit any response. Accordingly, the Center notified the Parties of Respondent's default on February 14, 2022.

The Center appointed Ingrida Kariņa-Bērziņa as the sole panelist in this matter on February 16, 2022. 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

Complainant is a major commercial bank in Viet Nam. It is the proprietor of numerous registrations for its TECHCOMBANK mark, including the following:

- Viet Nam registration no. VN 55953 for TECHCOMBANK (device mark), registered on July 29, 2004 for services in class 36;
- International registration no. 1124762 for TECHCOMBANK (device mark), registered on February 3, 2012 for services in class 36.

Complainant operates its website at the domain name <techcombank.com.vn>.

The disputed domain name was registered on June 15, 2005. It currently resolves to a website featuring pay-per-click ("PPC") links, including those connected to Complainant. The record contains evidence that it also has resolved dynamically to various third-party sites.

5. Parties' Contentions

A. Complainant

Complainant's contentions may be summarized as follows:

Under the first element, Complainant states that it was established in 1993 and is the 4th largest joint stock commercial bank in Viet Nam and 28th largest enterprise overall in that country. Its stock is publicly traded on the Ho Chi Minh City Stock Exchange. Complainant has registered its TECHCOMBANK mark in Viet Nam, countries around the region, and internationally. The disputed domain name is identical to Complainant's mark.

Under the second element, Complainant states that it does not have any connection or affiliation to Respondent and that it has never licensed, sponsored, or otherwise authorized the use of its trademarks to Respondent. Complainant's trademark registrations predate the registration of the disputed domain name. Respondent is not commonly known by the disputed domain name, nor does Respondent have any business activities in the field of banking. Respondent uses the disputed domain name to redirect Internet users to third-party websites, including PPC web pages with links to advertising services.

Under the third element, Complainant states that the mark TECHCOMBANK is an invented word and therefore it has high degree of distinctiveness. The mark was registered and used prior to the registration of the disputed domain name. TECHCOMBANK is a well-known trademark that has been used continuously and widely since 1993 in Viet Nam and many different countries. The disputed domain name redirects dynamically to multiple sites, including to the sites of Complainant's competitors and other third-party sites, including pay-per-click sites featuring advertisements related to Complainant and its industry, and gambling websites. Respondent is a privacy service engaged in the business of acquiring domain names and sometimes exploiting those domain names by means of click-through revenues and, if possible, sale at a profit. Respondent has been found to have acted in bad faith in numerous previous UDRP decisions, thereby establishing a pattern of conduct.

Complainant requests transfer of the disputed domain name.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

Paragraph 4(a) of the UDRP requires Complainant to make out all three of the following:

(i) the disputed 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 disputed domain name; and

(iii) Respondent has registered and is using the disputed domain name in bad faith.

A. Identical or Confusingly Similar

Complainant has provided evidence, not challenged by Respondent, establishing that it has trademark rights in the TECHCOMBANK mark through registrations in numerous jurisdictions. Complainant thereby satisfies the threshold requirement of having trademark rights for purposes of standing to file a UDRP case. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.2.

In comparing Complainant's TECHCOMBANK mark with the disputed domain name, the Panel finds that the disputed domain name is identical to it. It is the consensus view of UDRP panels that, where a domain name incorporates the entirety of a trademark, the domain name will normally be considered confusingly similar to that mark. See [WIPO Overview 3.0](#), section 1.7.

It is the well-established view of UDRP panels that the addition of the generic Top-Level Domain ("gTLD"), in this case, ".com", to a disputed domain name does not prevent the disputed domain name from being confusingly similar to Complainant's trademark (see [WIPO Overview 3.0](#), section 1.11.1, and cases cited thereunder).

Accordingly, the Panel finds that Complainant has established the first element under paragraph 4(a) of the Policy.

B. Rights or Legitimate Interests

The Panel finds that the evidence submitted by Complainant establishes a *prima facie* case that Respondent has no rights or legitimate interests in the disputed domain name. Respondent is not authorized by Complainant and has no rights in the TECHCOMBANK mark. Generally speaking, UDRP panels have found that domain names identical to a complainant's trademark carry a high risk of implied affiliation. The disputed domain name reflects Complainant's mark in its entirety, thereby suggesting sponsorship or endorsement by the trademark owner. Such use cannot confer rights or legitimate interests. See, for example, [WIPO Overview 3.0](#), section 2.5.1.

Pursuant to [WIPO Overview 3.0](#), section 2.1, and cases thereunder, where Complainant makes out a *prima facie* case that Respondent lacks rights or legitimate interests, the burden of production on this element shifts to Respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the disputed domain name.

Respondent has not provided any rebuttal of Complainant's *prima facie* case and has therefore not proved rights or legitimate interests in the disputed domain name. There is no evidence that Respondent is commonly known by the disputed domain name, or that there are any circumstances or activities that would

establish Respondent's rights therein. Rather, as the record shows, the disputed domain name resolves to a page featuring pay-per-click links related to Complainant's competitors. It is well-established that such use does not establish rights or legitimate interests. See, e.g., *Harpo, Inc. and Oprah's Farm, LLC v. Robert McDaniel*, WIPO Case No. [D2013-0585](#), and *The Knot, Inc. v. In Knot We Trust Ltd*, WIPO Case No. [D2006-0350](#), *Get Away Today.com., Inc. v. Warren Gilbert*, WIPO Case No. [DCO2010-0021](#). See also [WIPO Overview 3.0](#), section 2.9, and cases cited thereunder.

Accordingly, the Panel finds that Complainant has established the second element under paragraph 4(a) of the Policy.

C. Registered and Used in Bad Faith

The Panel finds that Complainant has demonstrated Respondent's bad faith registration and use of the disputed domain name. Complainant provides evidence that its rights in the TECHCOMBANK mark predate the registration of the disputed domain name, and that the mark has been used for more than 20 years in Viet Nam. The disputed domain name is identical to Complainant's well-established mark. Under similar circumstances, UDRP panels have consistently found that the mere registration of a domain name that is identical or confusingly similar to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith on the part of Respondent. See [WIPO Overview 3.0](#), section 3.1.4. Respondent has not provided any information that would rebut this presumption.

The evidence provided by Complainant indicates that the disputed domain name redirects to a pay-per-click website with keywords related to Complainant's competitors. The Panel finds this is evidence of bad faith use of the disputed domain name. Under similar circumstances, previous UDRP panels have found bad faith. See, for instance, *Shangri-La International Hotel Management Limited v. NetIncome Ventures Inc.*, WIPO Case No. [D2006-1315](#); *Villeroy & Boch AG v. Mario Pingerna*, WIPO Case No. [D2007-1912](#).

The Panel has reviewed recent UDRP cases in which Respondent was found to have engaged in bad faith conduct (such as, for example, *Iconectiv, LLC v. Domain Administrator, Fundacion Privacy Services LTD*, WIPO Case No. [D2022-0044](#); *CoryxKenshin LLC v. Domain Administrator, Fundacion Privacy Services LTD*, WIPO Case No. [D2021-3978](#), and others). In these and other cases, the learned panels found that Respondent demonstrated bad faith by concealing its identity and by using the disputed domain name to redirect users to third-party websites and/or to websites featuring PPC links. Based on the identity of these circumstances with the current case, the Panel finds that Respondent has engaged in a pattern of bad-faith conduct. See [WIPO Overview 3.0](#), section 3.1.2.

Respondent has provided no evidence of actual or contemplated good-faith use of the disputed domain name. Respondent has not presented any rational basis for registering and using the disputed domain name, nor does the Panel find that any such basis is plausible.

The Panel therefore finds that Complainant has established the third element under paragraph 4(a) of the Policy.

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 <techcombank.com> be transferred to Complainant.

/Ingrida Kariņa-Bērziņa/
Ingrida Kariņa-Bērziņa
Sole Panelist

Date: March 2, 2022