

## **ADMINISTRATIVE PANEL DECISION**

Bytedance Ltd. v. Domains By Proxy, LLC / Josh Roybal  
Case No. D2022-0424

### **1. The Parties**

The Complainant is Bytedance Ltd., Cayman Islands, United Kingdom, represented by CSC Digital Brand Services Group AB, Sweden.

The Respondent is Domains By Proxy, LLC, United States of America (“United States”) / Josh Roybal, United States.

### **2. The Domain Name and Registrar**

The disputed domain name <tiktokmusicpromotions.com> 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 February 8, 2022. On February 8, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 8, 2022, 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 February 21, 2022. In accordance with the Rules, paragraph 5, the due date for Response was March 13, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 14, 2022.

The Center appointed Anne-Virginie La Spada as the sole panelist in this matter on April 4, 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**

The Complainant is an Internet technology company that owns and operates creative content platforms. Tik Tok is one of the Complainant's platforms and applications. It enables users to create and upload short videos. Tik Tok was launched outside China in May 2017. Today, Tik Tok is available in more than 150 different markets in 75 languages, and is widely known.

The Complainant is the owner of the following trademark registration for TIK TOK:

- United States registration no. 5653614, registered on January 15, 2019, in classes 9, 38, 41, and 42.

The Complainant also submits evidence of registration of the below trademarks in the name of presumably affiliated companies:

- United Kingdom trademark no. UK00917891401, registered on November 29, 2018, in classes 9, 38, and 41, in the name of TikTok Information Technologies UK Limited;
- European Union Trade Mark no. 017913208, registered on October 20, 2018, in classes 9, 25, 35, 42, and 45, in the name of Bytedance UK Ltd; and,
- International trademark registration no. 1485318, registered on March 19, 2019, in classes 9, 25, 35, 38, 41, 42, and 45 in the name of TikTok Information Technologies UK Limited.

The Complainant is also the owner of the domain name <tiktok.com>, which was originally registered, on July 21, 1996, by a third party and was acquired in May 2018 by the Complainant.

The disputed domain name <tiktokmusicpromotions.com> was created on January 28, 2020. At the time of filing of the Complaint, the disputed domain name resolved to a website displaying the Complainant's TIK TOK trademark and logo and offering a tool allegedly enabling users to promote their music on Tik Tok by signing up and buying packages.

The Respondent's website includes a disclaimer at the bottom of the page, which is written in dark grey on a black background stating "Tik Tok Music is not affiliated with Tik Tok video app in anyway".

#### **5. Parties' Contentions**

##### **A. Complainant**

According to the Complainant, the disputed domain name is confusingly similar to its TIK TOK registered trademark as it captures the entirety of its trademark with the mere adjunction of the terms "music promotions". Furthermore, the additional terms relate to and describe the Complainant's brand and business.

The Complainant further contends that the Respondent is not sponsored by or affiliated with the Complainant in any way and that the Complainant has not authorized the Respondent to include its mark in the disputed domain names. Nor has the Complainant any knowledge that the Respondent is commonly known by the disputed domain name.

Finally, the Complainant contends that the Respondent has registered and used the disputed domain name in bad faith. Considering the fact that the disputed domain name resolved to a website displaying the

Complainant's logo and offering tools allegedly enabling users to promote their music on the Complainant's platform, the Respondent was aware of the existence of the Complainant and of its trademark when it registered the disputed domain name. Furthermore, the Respondent has intentionally misappropriated the Complainant's trademark as a way of redirecting Internet users to the disputed domain name's website, only to offer content unrelated to, and not approved by, the Complainant. Moreover, the Respondent used the Complainant's reputation to increase traffic on its website and for its own commercial gain, which, according to the Complainant, amounts to use in bad faith.

In addition, the presence of a disclaimer (even if hardly visible) at the bottom of website connected to the disputed domain name makes it abundantly clear, according to the Complainant, that Respondent knew of Complainant when registering and using the disputed domain name, and that the Respondent selected the domain to intentionally confuse unsuspecting internet users into visiting its website. Finally, the fact that the Respondent used a privacy service to hide its identity and the fact that he never responded to a cease-and-desist letter is according to the Complainant further evidence of bad faith.

## **B. Respondent**

The Respondent did not reply to the Complainant's contentions.

## **6. Discussion and Findings**

According to paragraph 4(a) of the Policy, a complainant must assert and prove each of the following:

- (i) the domain name registered by the respondent is 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 domain name; and
- (iii) the domain name registered by the respondent has been registered and is being used in bad faith.

### **A. Identical or Confusingly Similar**

The disputed domain name incorporates entirely the Complainant's TIK TOK mark, with the adjunction of the term "musicpromotions".

The addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) to a domain name where the relevant trademark is recognizable within the disputed domain name is considered by UDRP panels to be confusingly similar to the relevant mark for purposes of the first element (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.8).

In the present case, the trademark TIK TOK is clearly recognizable in the disputed domain name. The mere addition of the term "musicpromotions" does not change the overall impression produced by the disputed domain name and does not prevent a finding of confusing similarity between the disputed domain name and the Complainant's trademark.

The Panel notes that the elimination of spaces between the trademark's words is of no significance in determining confusing similarity (see *Royal Unibrew A/S v. Daniel Wallace*, WIPO Case No. [D2017-2519](#)).

Finally, UDRP panels also accept that a generic Top-Level Domain ("gTLD"), such as ".com", may be disregarded when assessing whether a domain name is identical or confusing similar to a trademark (see section 1.11 of the [WIPO Overview 3.0](#)).

The Panel finds accordingly that the Complainant has successfully established the requirement under paragraph 4(a)(i) of the Policy.

### **B. Rights or Legitimate Interests**

Based on the information submitted by the Complainant, the Respondent does not appear to have rights or legitimate interests in respect of the disputed domain name, nor has the Complainant granted to the Respondent any authorization to use the disputed domain name. Moreover, there is no evidence indicating that the Respondent is commonly known by the disputed domain name.

The Respondent does not appear to have operated any *bona fide* or legitimate business under the disputed domain name and is not making a noncommercial or fair use of the disputed domain name. Instead, the disputed domain name used to resolve to a website displaying the Complainant's TIK TOK trademark and logo and offering a tool allegedly enabling users to promote their music on the Complainant's platform by signing up and buying packages. Such use further supports the apparent lack of rights or legitimate interests of the Respondent in the disputed domain name. Indeed, impersonating the Complainant or falsely making it appear that there is an affiliation with the Complainant can hardly be a legitimate or fair use.

Furthermore, UDRP panels consider that even where a domain name consists of a trademark plus an additional term (at the second- or top-level), such composition cannot constitute fair use if it effectively impersonates or suggests sponsorship or endorsement by the trademark owner (see section 2.5.1 of the [WIPO Overview 3.0](#)).

Finally, the Respondent did not file a Response to the Complaint. The Panel may draw from the lack of a Response the inferences that it considers appropriate, according to the Rules, paragraph 14(b).

In view of the above, the Panel finds that the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name, and that the Respondent has not rebutted such *prima facie* case.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name, and that the Complainant has satisfied the condition set out in paragraph 4(a)(ii) of the Policy.

### **C. Registered and Used in Bad Faith**

Given that the trademark TIK TOK of the Complainant is distinctive and has been widely used before the registration of the disputed domain name, and that the Respondent used the Complainant's logo on his website, the Panel accepts that the Respondent was aware of the existence of the Complainant and of its TIK TOK trademark at the time of the registration of the disputed domain name. Accordingly, the Panel finds that the disputed domain name was registered in bad faith.

Under paragraph 4(b)(iv) of the Policy, the use of a disputed domain name to intentionally attempt to attract, for commercial gain, Internet users to a website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of a web site or location or of a product or service on the website or location, amounts to evidence of registration and use in bad faith.

The Respondent used the disputed domain name to redirect to a website displaying the Complainant's logo and offering a tool allegedly enabling users to promote their music on Tik Tok by signing up and buying packages. Such use was apt to create the false impression that the Respondent's website was operated or endorsed by the Complainant. Although it is uncertain whether the Respondent was in fact offering for sale membership programs which artificially generated traffic (followers, likes, or views) for Tik Tok users, this is immaterial in circumstances where the Panel finds that the Respondent was clearly using the website under the disputed domain name for its own commercial gain and that the requirements of paragraph 4(b)(iv) of the Policy have been made out.

Furthermore, UDRP panels consider that where the overall circumstances of a case point to the respondent's bad faith, the mere existence of a disclaimer cannot cure such bad faith. In such cases, panels may consider the respondent's use of a disclaimer as an admission by the respondent that users may be confused (see section 3.7 of the [WIPO Overview 3.0](#)). The nearly undetectable disclaimer at the bottom of the Respondent's webpage merely affirms, in the Panel's opinion, the Respondent's knowledge and bad faith disregard of the Complainant's rights.

For the reasons set out above, the Panel finds that the Respondent has registered and is using the disputed domain name in bad faith, and that the Complainant has satisfied the condition set forth in paragraph 4(a)(iii) 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 <tiktokmusicpromotions.com> be transferred to the Complainant.

*/Anne-Virginie La Spada/*

**Anne-Virginie La Spada**

Sole Panelist

Date: April 18, 2022