

ADMINISTRATIVE PANEL DECISION

Bytedance Ltd. v. Privacy service provided by Withheld for Privacy ehf / sali messbahi

Case No. D2022-2914

1. The Parties

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

The Respondent is Privacy service provided by Withheld for Privacy ehf, Iceland / sali messbahi, United Arab Emirates.

2. The Domain Name and Registrar

The disputed domain names <buytiktokfollowers.xyz>, <freetiktokfollowersapp.xyz>, <howtogettiktokfollowers.xyz>, <tiktokfollowerbot.xyz>, <tiktokfollowercounter.xyz>, <tiktokfollowersapp.xyz>, <tiktokfollowersfreeonline.xyz>, <tiktokfollowersfree.xyz>, <tiktokfollowersgenerator.xyz> are registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 8, 2022. On August 8, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 8, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name, which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on August 11, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amended Complaint. The Complainant filed an amended Complaint on August 16, 2022. The Center verified that the Complaint together with the amended 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 August 17, 2022. In accordance with the Rules, paragraph 5, the due date for Response was September 6, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 7, 2022.

The Center appointed Taras Kyslyy as the sole panelist in this matter on September 14, 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 enables users to access creative content platforms. The Complainant owns a series of content platforms that enable people to connect with consuming and creating content through machine learning technology, including TikTok, Helo and Resso. TikTok platform was launched in May 2017 and became the most downloaded application in the world in both 2020 and 2022. TikTok enables users to create and upload short videos. TikTok is available in more than 150 different markets, in 75 languages and has global offices including Los Angeles, New York, London, Paris, Berlin, Dubai, Mumbai, Singapore, Jakarta, Seoul, and Tokyo.

The Complainant and TikTok Information Technologies UK Limited with its subsidiary, is the owner of trademark registrations for TIK TOK/TIKTOK across various jurisdictions, including for instance the European Union Trade Mark registration No. 17913208, registered on October 20, 2018.

The Complainant also has a large Internet presence through its primary website "www.tiktok.com".

The disputed domain names were registered on March 26, 2022 and resolve to the same designed websites prominently featuring the Complainant's trademark and using its color schemes. The websites suggest entering a user's email or username to get followers at the Complainant's TikTok platform, further requiring download of some software at the user's device.

5. Parties' Contentions

A. Complainant

The disputed domain names are identical or confusingly similar to the Complainant's trademark. In creating the disputed domain names, the Respondent has added the generic, descriptive terms "follower/followers", "buy", "free", "app", "how to get", "bot", "counter", "online", and "generator" to the Complainant's trademark, thereby making the disputed domain names confusingly similar to the Complainant's trademark. The fact that such terms are closely linked and associated with the Complainant's brand and trademark only serve to underscore and increase the confusing similarity between the disputed domain names and the Complainant's trademark. Additionally, the Respondent's use of the disputed domain names contributes to the confusion. The Respondent is using the disputed domain names to a website that displays the Complainant's logo in order to confuse unsuspecting users into revealing personal information to the Respondent. This suggests that the Respondent intended the disputed domain names to be confusingly similar to the Complainant's trademark as a means of furthering consumer confusion. It is standard practice when comparing the disputed domain names to the Complainant's trademarks, to not take the extension into account.

The Respondent has no rights or legitimate interests in the disputed domain names. The Registrant of the disputed domain names is "sali messbahi", which does not resemble the disputed domain names in any manner. Thus, there is no evidence suggesting that the Respondent is commonly known by the disputed domain names, so the Respondent cannot be regarded as having acquired rights to or legitimate interests in the disputed domain names. The Complainant has not licensed, authorized, or permitted the Respondent to register the disputed domain names incorporating the Complainant's trademark. In creating the impression that the Respondent's websites are authorized and administered by the Complainant, the Respondent's purpose is to mislead unsuspecting visitors into divulging their personal information by providing a page for users to enter their TikTok username or email address. Thus, the websites at the disputed domain names

seek to take advantage of the fame of the Complainant's trademark and the trust and goodwill that the Complainant has fostered among consumers to, at minimum, illegitimately increase traffic to the Respondent's websites for personal gain, and at worst, phish personal information from the Complainant's customers for fraudulent purposes. This use of the disputed domain names, presumably for commercial gain, and with devious, nefarious motives, fails to constitute a *bona fide* offering of goods or services. The Respondent's inclusion of the Complainant's logo on the disputed domain names' website is a direct effort to take advantage of the fame and goodwill of the Complainant, and the Respondent is not only using the confusingly similar disputed domain names but is also imitating the Complainant by displaying its logo. The Respondent registered the disputed domain names significantly after the Complainant filed for registration of its trademark.

The disputed domain names were registered and are being used in bad faith. The use of the Complainant's well-known trademark in the disputed domain names and at the associated websites confirm the Respondent knew and targeted the Complainant's trademark rights when registering the disputed domain names, which confirms the bad faith. The Respondent has registered and used the disputed domain names to fraudulently pose as the Complainant for purposes of launching a phishing attack, which is evidence of bad faith registration and use. The Respondent's use of the disputed domain names constitutes a disruption of the Complainant's business and qualifies as bad faith registration and use, because the disputed domain names are confusingly similar to the Complainant's trademark and the websites at the disputed domain names are being used to offer "Tik Tok Followers Generator". The Respondent, at the time of initial filing of the Complaint, had employed a privacy service to hide its identity, which serves as further evidence of bad faith registration and use.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

According to section 1.11.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (the "[WIPO Overview 3.0](#)") the applicable generic Top-Level Domain ("gTLD") in a domain name (e.g., ".com", ".club", ".nyc") is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test. Thus, the Panel disregards the gTLD ".xyz" for the purposes of the confusing similarity test.

According to section 1.7 of the [WIPO Overview 3.0](#) in cases where a domain name incorporates the entirety of a trademark the domain name will normally be considered identical or confusingly similar to that mark for purposes of UDRP standing. The Panel finds that in the present case the disputed domain names incorporate the entirety of the Complainant's trademark.

According to section 1.8 of the [WIPO Overview 3.0](#) where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element. The Panel finds that in the present case the addition of terms "buy", "follower", "followers", "free", "app", "how", "to", "get", "bot", "counter", "free", "online" and "generator" to the respective disputed domain names do not prevent finding it confusingly similar to the Complainant's trademark.

Considering the above, the Panel finds the disputed domain names are confusingly similar to the Complainant's trademark, therefore, the Complainant has established its case under paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Complainant has established *prima facie* that the Respondent has no rights or legitimate interests in the disputed domain names.

Furthermore, the Respondent provided no evidence that it holds rights or legitimate interests in the disputed domain names.

The available evidence confirm that the Respondent is not commonly known by the disputed domain names, which could demonstrate its rights or legitimate interests (see, e.g., *World Natural Bodybuilding Federation, Inc. v. Daniel Jones, TheDotCafe*, WIPO Case No. [D2008-0642](#)).

The Complainant did not license or otherwise agree for use of its prior registered trademarks by the Respondent, thus no actual or contemplated *bona fide* or legitimate use of the disputed domain names could be reasonably claimed (see, e.g., *Sportswear Company S.P.A. v. Tang Hong*, WIPO Case No. [D2014-1875](#)).

The disputed domain names redirect Internet users to websites prominently featuring the Complainant's trademark and using in its design a color scheme similar to the Complainant's trademark to make the Internet users believe that they actually access a website at least authorized and controlled by the Complainant. Past UDRP panels confirmed that similar actions prove registrant has no rights or legitimate interests in a disputed domain name (see *Daniel C. Marino, Jr. v. Video Images Productions, et al.*, WIPO Case No. [D2000-0598](#), *Houghton Mifflin Co. v. Weatherman, Inc.*, WIPO Case No. [D2001-0211](#)).

The disputed domain names incorporate the TIKTOK trademark of the Complainant in its entirety. Since TIKTOK is a well-known trademark, and the disputed domain name is associated with the website offering services related to TIKTOK platform of the Complainant, the Panel finds that the Respondent must have been aware of the TIKTOK trademark when it registered the disputed domain names, and that it chose to target the TIKTOK trademark because of the likelihood that they will attract traffic to the Respondent's websites. In the Panel's view, such conduct cannot be regarded as giving rise to rights or legitimate interests on the part of the Respondent to register and use the disputed domain names (see, e.g., *LEGO Juris A/S v. Andrei Novakovich*, WIPO Case No. [D2016-1513](#)).

The Panel also finds that the nature of the services provided on the websites at the disputed domain names, in particular, adding followers contrary to the Complainant's policies, cannot constitute a *bona fide* offering of goods or services or legitimate noncommercial fair use (see, e.g., *Andrey Ternovskiy dba Chatroulette v. Polina Buterina*, WIPO Case No. [D2018-1499](#)).

Noting the risk of implied affiliation between the disputed domain names and the confusingly similar well-known trademark of the Complainant, the Panel finds that there is no plausible fair use to which the disputed domain names could be put that would not have the effect of being somehow connected to the Complainant (see, e.g., *Instagram, LLC v. Super Privacy Service LTD c/o Dynadot / Zayed*, WIPO Case No. [D2019-2897](#)).

Considering the above, the Panel finds the Respondent does not have rights or legitimate interests in the disputed domain names. Therefore, the Complainant has established its case under paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

At the time of the registration of the disputed domain names the Respondent clearly knew and targeted the Complainant's prior registered and famous trademark, which confirms the bad faith registration (see, e.g., *The Gap, Inc. v. Deng Youqian*, WIPO Case No. [D2009-0113](#)).

According to section 3.1.4 of the [WIPO Overview 3.0](#) 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. The Panel is convinced that the Complainant's trademark is well established

through quite long and very intensive use and the Complainant has acquired a significant reputation and level of goodwill in its trademark internationally. Thus, the Panel finds that the disputed domain names confusingly similar to the Complainant's trademark were registered in bad faith.

According to paragraph 4(b)(iv) 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 a domain name in bad faith: by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your 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 your website or location or of a product or service on your website or location. In this case, the disputed domain names resolve to websites featuring the Complainant's trademark and falsely making impression of being related or authorized by the Complainant to intentionally attract Internet users by creating likelihood of confusion with the Complainant's trademark as to the source of the website and its services. The Panel finds the above confirms the disputed domain names were registered and used in bad faith.

Moreover, the Respondent used a privacy service to register the disputed domain names. According to section 3.6 of the [WIPO Overview 3.0](#), the use of a privacy or proxy service merely to avoid being notified of a UDRP proceeding, may support an inference of bad faith; a respondent filing a response may refute such inference. However, no such response was provided by the Respondent. The Panel finds that such use of the privacy service here confirms registration of the disputed domain names in bad faith.

Considering the above, the Panel finds the disputed domain names were registered and are being used in bad faith. Therefore, the Complainant has established its case under 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 names, <buytiktokfollowers.xyz>, <freetiktokfollowersapp.xyz>, <howtogettiktokfollowers.xyz>, <tiktokfollowerbot.xyz>, <tiktokfollowercounter.xyz>, <tiktokfollowersapp.xyz>, <tiktokfollowersfreeonline.xyz>, <tiktokfollowersfree.xyz>, <tiktokfollowersgenerator.xyz>, be transferred to the Complainant.

/Taras Kyslyy/

Taras Kyslyy

Sole Panelist

Date: September 28, 2022