

ADMINISTRATIVE PANEL DECISION

Bytedance Ltd. v. Landry Deugueu Ngani, COMMEDUC
Case No. D2022-3783

1. The Parties

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

The Respondent is Landry Deugueu Ngani, COMMEDUC, Germany.

2. The Domain Name and Registrar

The disputed domain name <tiktok-awards.org> is registered with Cronon GmbH (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 10, 2022. On October 11, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 13, 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 October 19, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. On October 19, 2022, the Center transmitted an email in English and German to the Parties regarding the language of the proceeding. The Complainant filed an amended Complaint on October 21, 2022, in which it confirmed its request that English be the language of the proceeding. The Respondent did not comment on the language of the proceeding.

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 in English and German, and the proceedings commenced on October 26, 2022. In accordance with the Rules, paragraph 5, the due date for Response was November 15, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 17, 2022.

The Center appointed Andrea Mondini as the sole panelist in this matter on November 28, 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 owning a series of products that enable people to connect with consuming and creating content, including TikTok, Helo, and Resso. TikTok was launched in May 2017 and enables users to create and upload short videos. It is available on more than 150 countries and is one of the most popular websites globally.

The Complainant owns numerous trademark registrations for TIK TOK, *inter alia*, the United Kingdom Trademark TIK TOK (No. UK00917891401, registered on November 29, 2018) and the European Union Trade Mark TIK TOK (No. 017913208, registered on October 20, 2018).

The Complainant also holds the domain name <tiktok.com>.

The disputed domain name was registered on April 19, 2022.

The disputed domain redirects Internet users to a third party website that promotes “Afratok awards”.

5. Parties’ Contentions

A. Complainant

The Complainant contends as follows:

The disputed domain name is confusingly similar to the TIK TOK trademark in which the Complainant has rights, because it incorporates this trademark in its entirety, and the addition of the word “awards” is not sufficient to avoid confusing similarity, particularly considering that since 2019 the Complainant has launched the “Tik Tok Awards” program to celebrate and award users, agencies, and brands that promote and lead high-performing campaigns on its platform.

The Respondent has no rights or legitimate interests in respect of the disputed domain name. The mark TIK TOK is associated with the Complainant, since the trademark TIK TOK has been extensively used worldwide to identify the Complainant and its platform. The Respondent has not been authorized by the Complainant to use this trademark and is not commonly known by the disputed domain name. The disputed domain name’s website redirects Internet users to a third party website that promotes an awards event similar to the Complainant’s. Such use of the Complainant’s trademark does not constitute a *bona fide* offering of goods and services nor a legitimate noncommercial or fair use.

The disputed domain name was registered and is being used in bad faith because it is obvious that the Respondent had knowledge of both the Complainant and its well known trademark TIK TOK at the time it registered the disputed domain name, and because the disputed domain resolves to a website promoting an “Afratok Awards” event similar to the Complainant’s, thus disrupting the Complainant’s business.

B. Respondent

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

6. Discussion and Findings

6.1. Language of the Proceeding

In the present case, German is the language of the registration agreement. Pursuant to paragraph 11 of the Rules, unless otherwise agreed by the parties, the default language of the proceeding is the language of the registration agreement, subject to the authority of the panel to determine otherwise.

Paragraph 10 of the Rules vests a panel with authority to conduct the proceedings in a manner it considers appropriate while also ensuring both that the parties are treated with equality, and that each party is given a fair opportunity to present its case.

The Complainant filed the Complaint in English. In its amended Complaint, the Complainant submitted a request for English to be the language of the proceeding. The Respondent did not comment on this request.

Considering (i) that the disputed domain name resolves to a website in French and offers translations of this website also in English; (ii) that the term “awards” is an English word; and (iii) that the Respondent has not submitted a formal response in German and did not comment on the language of the proceeding, the Panel determines that the language of the proceeding is English.

6.2 Substantive Issues

According to paragraph 4(a) of the Policy, in order to succeed, a complainant must establish each of the following elements:

- (i) the disputed domain name is identical or confusingly similar to the trademark or service mark in which the complainant has rights; and
- (ii) the respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Panel is satisfied that the Complainant owns trademark registrations for its TIK TOK trademark.

The Panel notes that the disputed domain name incorporates the TIK TOK trademark in its entirety. The addition of the word “awards” does not prevent a finding of confusing similarity under Policy, paragraph 4(a)(i). See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.8.

For these reasons, the Panel concludes that the disputed domain name is confusingly similar to the Complainant’s mark TIK TOK.

The first element of paragraph 4(a) of the Policy has been met.

B. Rights or Legitimate Interests

The Complainant states it has not authorized the Respondent to use the trademark TIK TOK. The Panel does not see any contrary evidence from the record.

The disputed domain name’s website redirects Internet users to a third party website that promotes an “Afitok awards”. Such use of the Complainant’s trademark does not constitute a *bona fide* offering of goods and services nor a legitimate noncommercial or fair use of the Complainant’s trademark TIK TOK, rather it appears to be an attempt to take advantage of the Complainant’s trademark to divert Internet users to the

Respondent's website offering similar or competing good and services.

In the view of the Panel, the Complainant has succeeded in raising a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. For its part, the Respondent failed to provide any explanations as to any rights or legitimate interests. Therefore, the Panel finds that the Respondent does not have any rights or legitimate interests in the disputed domain name.

Furthermore, the nature of the disputed domain name, comprising the Complainant's trademark and the term "awards", carries a risk of implied affiliation. See [WIPO Overview 3.0](#), section 2.5.1.

The second element of paragraph 4(a) of the Policy has been met.

C. Registered and Used in Bad Faith

The Complainant has shown to the satisfaction of the Panel that its TIK TOK trademark is well-known.

In the view of the Panel, it is inconceivable that the Respondent could have registered the disputed domain name without knowledge of the Complainant's well-known trademark TIK TOK. In the circumstances of this case, this is evidence of registration in bad faith.

The disputed domain name resolves to third party website offering "Afratok awards". Considering that the Complainant offers the "Tik Tok Awards" program, and that the name "Afratok" incorporates part of the Complainant's TIK TOK trademark, the Panel finds that by using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's mark and the "Tik Tok Awards". This constitutes use in bad faith in the sense of paragraph 4(b)(iv) of the Policy. In this regard, the Panel also notes the reputation of the Complainant's trademark, and the Respondent's failure to submit a response or provide any evidence of actual or contemplated good-faith use. Furthermore, it is inconceivable that the Respondent could make any good faith use of the disputed domain name.

The Panel thus finds that the disputed domain name was registered and is being used in bad faith.

The third element of paragraph 4(a) of the Policy has been met.

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 <tiktok-awards.org> be transferred to the Complainant.

/Andrea Mondini/

Andrea Mondini

Sole Panelist

Date: December 12, 2022