

ADMINISTRATIVE PANEL DECISION

TikTok Ltd. v. Sanju Kumari
Case No. D2023-2186

1. The Parties

The Complainant is TikTok Ltd., Cayman Islands, United Kingdom (“UK”), represented by CSC Digital Brand Services Group AB, Sweden.

The Respondent is Sanju Kumari, India.

2. The Domain Name and Registrar

The disputed domain name <tiktok18.club> is registered with eNom, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 18, 2023. On May 19, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 19, 2023, 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 (Proxy Protection LLC (248800283) / Proxy Protection LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 24, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on May 25, 2023.

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 May 31, 2023. In accordance with the Rules, paragraph 5, the due date for Response was June 20, 2023. The Respondent’s informal communication was received by email on June 4, 2023. The Center notified the commencement of panel appointment process to the Parties on June 21, 2023.

The Center appointed Rodrigo Azevedo as the sole panelist in this matter on June 28, 2023. 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 discover a world of creative content platforms, and is famous for the short-form video hosting online service TikTok.

The Complainant with its affiliate TikTok Information Technologies UK Limited is the owner of numerous trademark registrations for TIKTOK, such as the United States of America registration no. 5653614, registered on January 15, 2019; the United Kingdom registration no. 00917891401, registered on November 29, 2018; and the European Union registration no. 017913208, registered on October 20, 2018.

The Respondent registered the disputed domain name on December 9, 2022.

The disputed domain name resolved to a webpage prominently reproducing the Complainant's trademark and logo together with the term "18+", promoting in Portuguese an application called "TikTok 18", a video hosting service including adult and pornographic contents. Currently, the disputed domain name redirects to <tikplus.io>.

5. Parties' Contentions

A. Complainant

The Complainant makes the following contentions:

- The disputed domain name is identical or confusingly similar to a trademark in which the Complainant has rights. By virtue of its trademark registrations, the Complainant is the owner of the TIKTOK trademarks. It is standard practice when comparing a disputed domain name to a complainant's trademarks to not take the extension into account. The disputed domain name can be considered as capturing, in its entirety, the Complainant's TIKTOK trademarks and simply adding the term "18" as a suffix. The mere addition of this term to the Complainant's TIKTOK trademarks does not negate the confusing similarity between the disputed domain name and the Complainant's TIKTOK trademarks, and the disputed domain name must be considered confusingly similar to the Complainant's TIKTOK trademarks. The Respondent is using the disputed domain name to resolve to a website that features the Complainant's TikTok logo and offers for download an APK ("Android Package Kit") file called "TikTok 18". This suggests that the Respondent intended the disputed domain name to be confusingly similar to the Complainant's trademarks as a means of furthering consumer confusion.
- The Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent is not sponsored by or affiliated with the Complainant in any way, nor has the Complainant given the Respondent license, authorization or permission to use the Complainant's trademarks in any manner, including in domain names. The Respondent is not commonly known by the disputed domain name. Furthermore, at the time of filing the Complaint, the Respondent was using a privacy Whois service, which past panels have also found to equate to a lack of legitimate interests. TIKTOK is a famous trademark worldwide, and it is highly unlikely that the Respondent did not know of the Complainant's legal rights in the TikTok name at the time of the disputed domain name's registration. The Respondent registered the disputed domain name on December 9, 2022, which is significantly after the registrations of the TIKTOK trademarks. The current use of the disputed domain name is a direct effort to take advantage of the fame and goodwill that the Complainant has built in its brands. The Respondent is also confusing users into believing that some sort of affiliation

exists between it and the Complainant. In addition, numerous past panels have held that use of a disputed domain name that is confusingly similar to a complainant's trademarks to link to a website linked with pornographic or adult content evinces a lack of legitimate rights or interests. Such use also contravenes TikTok's Terms of Service.

- The disputed domain name was registered and is being used in bad faith. The Complainant and its TIKTOK trademarks are known internationally, with trademark registrations across numerous countries. The Complainant has marketed and sold its goods and services using this trademark since 2017, which is well before the Respondent's registration of the disputed domain name. The Respondent has demonstrated a knowledge of and familiarity with the Complainant's brands and business. Further, by copying the Complainant's TIKTOK trademarks and logo on its website, there is no denying that the Respondent registered the disputed domain name to specifically target the Complainant. The Respondent is attempting to cause consumer confusion in a nefarious attempt to profit from such confusion. Moreover, the Respondent's use of a confusingly similar domain name to direct unsuspecting Internet users to adult content is evidence of bad faith registration and use of that domain name. The Respondent, at the time of initial filing of the Complaint, had employed a privacy service to hide its identity, which past panels have held serves as further evidence of bad faith registration and use. Finally, on balance of the facts set forth above, it is more likely than not that the Respondent knew of and targeted the Complainant's trademarks, and the Respondent should be found to have registered and used the disputed domain name in bad faith.

B. Respondent

The Respondent did not reply to the Complainant's contentions, but only sent an informal email message to the Center stating that he has no control over the disputed domain name and that he had tried to take down the respective website many times, without success.

6. Discussion and Findings

Paragraph 4(a) of the Policy provides that in order to be entitled to a transfer of the disputed domain name, a complainant shall prove the following three elements:

- (i) The disputed domain name 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 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 has no doubt that "TikTok" is a term directly connected with the Complainant's trademarks and online platform.

Annex 1 to the Complaint shows trademark registrations for TIKTOK that date as early as in 2018.

The trademark TIKTOK is wholly encompassed within the disputed domain name. The disputed domain name differs from the Complainant's trademark TIKTOK merely by the by the addition of the suffix "18" and of the generic Top-Level Domain ("gTLD") ".club".

Previous UDRP decisions have found that the mere addition of terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) to a trademark in a domain name does not avoid a finding of confusing similarity. This has been held in many UDRP cases (see, e.g., *Inter-IKEA Systems B.V. v. Evezon Co. Ltd.*, WIPO Case No. [D2000-0437](#); *The British Broadcasting Corporation v. Jaime Renteria*, WIPO Case

No. [D2000-0050](#); *Volvo Trademark Holding AB v. SC-RAD Inc.*, WIPO Case No. [D2003-0601](#); *Wal-Mart Stores, Inc. v. Lars Stork*, WIPO Case No. [D2000-0628](#); *America Online, Inc. v. Dolphin@Heart*, WIPO Case No. [D2000-0713](#); *AltaVista Company v. S. M. A., Inc.*, WIPO Case No. [D2000-0927](#)).

It is also already well established that the addition of a gTLD such as “.club” is typically irrelevant when determining whether a domain name is confusingly similar to a complainant’s trademark.

As a result, the Panel finds that the disputed domain name is confusingly similar to the Complainant’s trademarks, and that the Complainant has satisfied the first element of the Policy.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides some examples without limitation of how a respondent can demonstrate rights or legitimate interests in a domain name:

- (i) before receiving any notice of the dispute, the respondent used or made demonstrable preparations to use the domain name in connection with a *bona fide* offering of goods or services; or
- (ii) the respondent has been commonly known by the domain name; or
- (iii) the respondent is making a legitimate noncommercial or fair use of the domain name without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark at issue.

Based on *prima facie* evidence in the Complaint, the Panel finds that the above circumstances are not present in this particular case and that the Respondent has no rights or legitimate interests in the disputed domain name.

The Complainant has not licensed or authorized the usage of its trademarks to the Respondent, and it does not appear from the present record that the Respondent is commonly known by the disputed domain name.

The Panel notes that the present record provides no evidence to demonstrate the Respondent’s intent to use or to make preparations to use the domain name in connection with a *bona fide* offering of goods or services. Indeed, the disputed domain name is currently linked to a website reproducing the Complainant’s famous trademark and logo, as well as relating its service to adult and pornographic contents.

Consequently, the Panel is satisfied that the Respondent has no rights or legitimate interests in the disputed domain name, and the Complainant has proven the second element of the Policy.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy states that the following circumstances in particular, but without limitation, shall be evidence of registration and use of a domain name in bad faith:

- (i) circumstances indicating that the respondent has registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of documented out-of-pocket costs directly related to the domain name; or
- (ii) the respondent registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct; or
- (iii) the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or

- (iv) by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to its 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 its website or location or of a product or service on its website or location.

When the disputed domain name was registered by the Respondent (in 2022) the trademark TIKTOK was already well-known worldwide and directly connected to the Complainant's online services.

According to the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 3.1.4, UDRP panels have consistently found that the mere registration of a domain name that is identical or confusingly similar to a widely known trademark by an unaffiliated entity can by itself create a presumption of bad faith.

The disputed domain name is being used in connection with a website directly targeting TIKTOK consumers in Brazil, promoting an unauthorized adult and pornographic version of the Complainant's service, reproducing its trademark and logo. As the website prominently displays the Complainant's TIKTOK trademark, it gives a false impression that the website is endorsed by, or somehow related to the Complainant.

Therefore, the Panel concludes that it would not be feasible to consider that the Respondent – at the time of the registration of the disputed domain name – could not have been aware of the Complainant's famous trademark, as well as that the adoption of the expression "tiktok18" together with the gTLD ".club" could be a mere coincidence.

In this Panel's opinion, the addition of the term "18" and the gTLD ".club" even enhances the risk of confusion in the present case, emphasizing the perception that the disputed domain name refers to an adult variation of the TIKTOK services.

Such circumstances, associated with the lack of any plausible interpretation for the adoption of the term "tiktok18" by the Respondent, are enough in this Panel's view to characterize bad faith registration and use in the present case.

Accordingly, the Panel finds that the disputed domain name was registered and is being used in bad faith, and the Complainant has also satisfied the third element 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 <tiktok18.club> be transferred to the Complainant.

/Rodrigo Azevedo/

Rodrigo Azevedo

Sole Panelist

Date: July 13, 2023