

ADMINISTRATIVE PANEL DECISION

TikTok Ltd. v. 易發, and happy vip, huanlegu
Case No. D2023-2973

1. The Parties

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

The Respondent is 易發, China, and happy vip, huanlegu, Colombia.

2. The Domain Names and Registrars

The disputed domain names <tiktokauew.cloud>, <tiktokauew.life>, <tiktokauew.shop>, <tiktokauew.top>, <tiktokauew.xyz>, <tiktokdfahf.cloud>, <tiktokdfahf.life>, <tiktokdfahf.shop>, <tiktokdfahf.top>, <tiktokdfahf.xyz>, <tiktokzmnvb.top> are registered with NameSilo, LLC (the “First Registrar”), and the disputed domain names <tiktokzmnvb1.club>, and <tiktokzmnvb1.top> are registered with Dynadot, LLC (the “Second Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 11, 2023. On July 12, 2023, the Center transmitted by email to the Registrars a request for registrar verification in connection with the disputed domain names. On July 12, 2023, the Second Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondents (Super Privacy Service LTD c/o Dynadot, and PrivacyGuardian.org LLC) and contact information in the Complaint. On July 13, 2023, the First Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondents (Super Privacy Service LTD c/o Dynadot, and PrivacyGuardian.org LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 18, 2023, providing the registrant and contact information disclosed by the Registrars, and inviting the Complainant to submit an amendment to the Complaint or to file a separate complaint for each of the disputed domain names. The Complainant filed an amended Complaint on July 18, 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 July 25, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 14, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondents’ default on August 22, 2023.

The Center appointed Taras Kyslyy as the sole panelist in this matter on August 25, 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 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 as follows:

<tiktokauew.cloud> on June 18, 2023,
<tiktokauew.life> on June 18, 2023,
<tiktokauew.shop> on June 18, 2023,
<tiktokauew.top> on June 18, 2023,
<tiktokauew.xyz> on June 18, 2023,
<tiktokdfahf.cloud> on June 14, 2023,
<tiktokdfahf.life> on June 14, 2023,
<tiktokdfahf.shop> on June 14, 2023,
<tiktokdfahf.top> on June 14, 2023,
<tiktokdfahf.xyz> on June 14, 2023,
<tiktokzmnvb.top> on June 13, 2023,
<tiktokzmnvb1.club> on June 19, 2023,
<tiktokzmnvb1.top> on June 19, 2023.

Shortly after the registration, the disputed domain names resolved to similarly designed online shopping pages in English and Chinese prominently featuring the Complainant's trademark and listing the same email address. At the time of filing of the Complaint and onwards the disputed domain names do not resolve to any active websites.

5. Parties’ Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain names.

Notably, the Complainant contends that the disputed domain names can be considered as capturing, in its entirety, the Complainant's trademark and simply adding some random characters ("zmnvb", "zmnvb1", "aew" or "dfahf") as a suffix. The mere addition of some random characters to the Complainant's trademark does not negate the confusing similarity between the disputed domain names and the Complainant's trademark.

The Complainant also contends that the Respondent has no rights or legitimate interests in respect of the disputed domain names. 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 the disputed domain names. The Respondent is not commonly known by the disputed domain names, which evinces a lack of rights or legitimate interests. The Respondent exploits the reputation of the Complainant's trademark and logo to attract traffic to its websites, and to ultimately pass itself off as the Complainant. On the website available at the disputed domain names, the Respondent offered and attempted to mimic the Complainant's shop, which directly compete with the Complainant's own offerings, which coupled with the unauthorized use of the Complainant's trademarks in a confusingly similar disputed domain names, does not qualify as a *bona fide* offering of goods or services.

Finally, the Complainant contends that by registering the disputed domain names that incorporate the Complainant's famous trademark along with some random characters, and its further use for websites copying the Complainant's trademarks and logos, the Respondent showed that it registered the disputed domain names knowing and targeting the Complainant and its trademark. The Respondent creates a likelihood of confusion with the Complainant and its trademark by displaying the Complainant's logo on the websites associated with the disputed domain names, with the Respondent then attempting to profit from such confusion by promoting its copycat websites. Current non-use of the disputed domain name does not prevent finding bad faith use. The Respondent had employed a privacy service to hide its identity.

B. Respondent

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

6. Discussion and Findings

A. Consolidation

The Complainant requested the Panel to hear the present dispute brought against the two Respondents as a consolidated Complaint.

Paragraph 10(e) of the Rules states that a "[p]anel shall decide a request by a Party to consolidate multiple domain name disputes in accordance with the Policy and these Rules." Paragraph 10(c) of the Rules provides, in relevant part, that "the [p]anel shall ensure that the administrative proceeding takes place with due expedition".

Section 4.11.2 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") summarizes the consensus view of UDRP panels on the consolidation of multiple respondents, in part, as follows: "Where a complaint is filed against multiple respondents, panels look at whether (i) the domain names or corresponding websites are subject to common control, and (ii) the consolidation would be fair and equitable to all parties. Procedural efficiency would also underpin panel consideration of such a consolidation scenario".

The Complainant asserts, among other things, that the Respondents should be treated as one Respondent in this proceeding, as the Respondents appear to be the same person controlling connected websites, since (i) all of the disputed domain names incorporate the Complainant's trademark, (ii) all of the disputed domain names were registered between June 13, 2023 and June 19, 2023, (iii) all of the disputed domain names resolved to the same or highly identical online shopping pages listing the same email address at the bottom

of the websites, and (iv) all of the websites resolved by the disputed domain names had content in English and Chinese, even though they resolve to inactive content at the time of filing of the Complaint.

The Panel accepts these arguments in favor of consolidation and grants the request to consolidate the Respondents into one proceeding. Hereafter, the Panel will refer to the Respondents as “the “Respondent””.

B. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant’s trademark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

Based on the available record, the Panel finds the Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the entirety of the mark is reproduced within the disputed domain names. Accordingly, the disputed domain names are identical or confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

While the addition of other terms here, “auew”, “dfahf”, “zmnvb” and “zmnvb1”, may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the disputed domain names and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Based on the available record, the Panel finds the first element of the Policy has been established.

C. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

While the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of “proving a negative”, requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the record, the Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain names. The Respondent has not rebutted the Complainant’s *prima facie* showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain names such as those enumerated in the Policy or otherwise.

The available evidence do not confirm that the Respondent is commonly known by the disputed domain name, 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 name could be reasonably claimed (*see, e.g., Sportswear Company S.P.A. v. Tang Hong*, WIPO Case No. [D2014-1875](#)).

The disputed domain names used to direct Internet users to a website with a logo similar to the Complainant's and designed to make the Internet users believe that they actually access the websites associated with the Complainant. Past UDRP panels confirmed that such 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](#)).

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](#)).

Based on the available record, the Panel finds the second element of the Policy has been established.

D. Registered and Used in Bad Faith

The Panel notes that for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular but without limitation, that if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, the Panel notes that 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.

Although at the time of this decision the disputed domain names resolve to inactive webpage, its previous bad faith use and lack of explanation of possible good faith use from the Respondent makes any good faith use of the disputed domain names implausible. Thus, the current passive holding of the disputed domain names does not prevent a finding of bad faith (see section 3.3 of the [WIPO Overview 3.0](#)).

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.

Based on the available record, the Panel finds the third element of the Policy has been established.

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, <tiktokauew.cloud>, <tiktokauew.life>, <tiktokauew.shop>, <tiktokauew.top>, <tiktokauew.xyz>, <tiktokdfahf.cloud>, <tiktokdfahf.life>, <tiktokdfahf.shop>, <tiktokdfahf.top>, <tiktokdfahf.xyz>, <tiktokzmnvb.top>, <tiktokzmnvb1.club>, and <tiktokzmnvb1.top> be transferred to the Complainant.

/Taras Kyslyy/

Taras Kyslyy

Sole Panelist

Date: September 8, 2023