

ADMINISTRATIVE PANEL DECISION

TikTok Ltd. v. Thefact Hub

Case No. D2023-3752

1. The Parties

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

Respondent is Thefact Hub, India.

2. The Domain Name and Registrar

The disputed domain name <tiktok18free.com> (“Domain Name”) is registered with FastDomain, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 8, 2023. On September 8, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On September 11, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent (Domain Admin, Domain Privacy Service Fbo Registrant) and contact information in the Complaint. The Center sent an email communication to Complainant on September 15, 2023 providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on September 19, 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 Respondent of the Complaint, and the proceedings commenced on September 26, 2023. In accordance with the Rules, paragraph 5, the due date for Response was October 16, 2023. Respondent did not submit any formal response. Accordingly, the Center notified Respondent with the Commencement of Panel Appointment Process email on October 23, 2023.

On September 29, October 4 and 9, 2023 Respondent sent informal email communications to the Center. On October 10, 2023 Complainant confirmed to the Center that they do not wish to settle the dispute.

The Center appointed Marina Perraki as the sole panelist in this matter on October 26, 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

Complainant is an Internet technology that owns content platforms and applications. TikTok is Complainant's application ("app") for its video sharing social networking services. TikTok enables users to create and upload short videos. TikTok offers features such as background music and augmented reality effects, but users control which features to pair with the content of their self-directed videos, and TikTok serves as a host for the content created by its users. TikTok was launched in May 2017 and became the most downloaded application in the United States of America ("United States") in October 2018. TikTok reached over a billion users worldwide in September 2021 and currently has over 1.5 billion users as of April 2023. In 2022, TikTok was the No. 1 most downloaded application in the United States and globally, with 672 million 99 million downloads in the United States and 672 million downloads globally. Since its launch in the Google Play Store, more than 1 billion users have downloaded the TikTok app. In the Apple Store, the TikTok app is ranked as "No.2 in Entertainment" and "No.3 in Entertainment of free iPad apps. It is also one of Apple's features "editors Choice" apps. Complainant also has a large Internet presence through its main website at "www.tiktok.com". According to SimilarWeb.com, Complainant's website had a total of 2.0 billion million visitors in March 2023, making it the 15th most popular website globally and 21st most popular website in the United States.

Complainant and its affiliate is the owner of various trademark registrations for TIK TOK, including:

- the European Union Trade mark registration No. 017913208, TIK TOK (word), filed on June 6, 2018, registered on October 20, 2018, for goods and services in international classes 9, 25, 35, 42 and 45;
- the United States Trademark registration No. 5653614, TIK TOK (word), filed on April 23, 2018, registered on January 15, 2019, for goods and services in international classes 9, 38, 41 and 42; and
- the International Trademark registration No. 1485318, TIK TOK (word), registered on March 19, 2019, for goods and services in international classes 9, 25, 35, 38, 41, 42 and 45.

The Domain Name was registered on May 15, 2023 and leads to a website that displays Complainant's TIK TOK trademarks and logo, including as favicons and offers for download unauthorized APK ("Android Package Kit") files featuring adult content under the name "TikTok 18 Free" (the Website). In addition, Respondent allows the download of these APK files and promotes these files, which prominently bear Complainant's logo, as "the latest version of Adult TikTok application for your android".

5. Parties' Contentions

A. Complainant

Complainant asserts that it has established all three elements required under paragraph 4(a) of the Policy for a transfer of the Domain Name.

B. Respondent

Respondent did not formally reply to Complainant's contentions. Respondent sent an informal email communication to the Center on September 29, 2023 asking for access to the Website in order to remove the content, undertaking "to resolve this issue as swiftly as possible". Respondent sent another email communication on October 4, 2023 denying that there is anything wrong with the Website and stating that they merely provide information about an 'APK' (Software) and that they have a disclaimer, while there are hundreds of websites which have such content and asking to be provided with more information. On October 9, 2023 Respondent sent a last email communication to the Center asking again for more information and offering to remove content from the Website, stating that they wish to solve the matter "directly".

6. Discussion and Findings

Paragraph 4(a) of the Policy lists the three elements, which Complainant must satisfy with respect to the Domain Name:

- (i) the Domain Name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- (ii) Respondent has no rights or legitimate interests in respect of the Domain Name; and
- (iii) the Domain Name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

Complainant has demonstrated rights through registration and use on the TIK TOK mark.

The Panel finds that the Domain Name is confusingly similar with the TIK TOK trademark of Complainant.

The Domain Name incorporates the said trademark of Complainant in its entirety with the addition of the term "18 free". The Panel finds that the trademark is recognizable in the Domain Name (*Magnum Piering, Inc. v. The Mudjacks and Garwood S. Wilson, Sr.*, WIPO Case No. [D2000-1525](#), WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") section 1.7).

The generic Top-Level Domain ("gTLD") ".com" is disregarded, as gTLDs typically do not form part of the comparison on the grounds that they are required for technical reasons (*Rexel Developpements SAS v. Zhan Yequn*, WIPO Case No. [D2017-0275](#); *Hay & Robertson International Licensing AG v. C. J. Lovik*, WIPO Case No. [D2002-0122](#)).

The Panel finds that the Domain Name is confusingly similar to the TIK TOK trademark of Complainant.

Complainant has established Policy, paragraph 4(a)(i).

B. Rights or Legitimate Interests

Pursuant to paragraph 4(c) of the Policy, Respondent may establish its rights or legitimate interests in the Domain Name, among other circumstances, by showing any of the following elements:

- (i) before any notice to Respondent of the dispute, Respondent's use of, or demonstrable preparations to use, the Domain Name or a name corresponding to the Domain Name in connection with a *bona fide* offering of goods or services; or

- (ii) Respondent (as an individual, business, or other organization) have been commonly known by the Domain Name, even if you have acquired no trademark or service mark rights; or
- (iii) 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 or service mark at issue.

The Panel concludes that Respondent lacks rights or legitimate interests in respect of the Domain Name.

Respondent has not submitted any formal response and has not claimed any such rights or legitimate interests with respect to the Domain Name. Nor is there any indication on the record that Respondent has been commonly known by the Domain Name. As per Complainant, Respondent was not authorized to register the Domain Name.

Respondent has not demonstrated any preparations to use or has not used the Domain Name or a trademark corresponding to the Domain Name in connection with a *bona fide* offering of goods or services.

On the contrary, as Complainant demonstrated, the Domain Name was used to host the Website to impersonate Complainant and attempt to mislead consumers into thinking that the services purportedly offered on the Website originate from Complainant. Such use demonstrates neither a *bona fide* offering of goods or services nor a legitimate noncommercial or fair use of the Domain Name (*Arkema France v. Aaron Blaine*, WIPO Case No. [D2015-0502](#)).

Furthermore, the Website offers for download unauthorized APK files featuring adult content named “TikTok 18 Free”. Respondent promotes these files as “the latest version of Adult TikTok application for your android”. Per Complainant, no mobile version of “TikTok 18 Plus” that is associated to or authorized by Complainant exists. Such use also contravenes the app’s Terms of Service, para. 5, which specifically prohibits “any material which is defamatory of any person, obscene, offensive, pornographic, hateful or inflammatory”.

The Panel considers also the fact that the Website contains wording stating that “TikTok 18” is a “Third Party App” however the Panel finds that because of the prominent display of Complainant’s trademarks and logo throughout the Website, this wording is not enough to indicate that Respondent’s use is unauthorized by Complainant, nor does it change the fact that Respondent is using Complainant’s marks to increase traffic in its own Website.

The above, along with the fact that the Domain Name was registered with a privacy shield service at the time of filing of the Complaint, speaks against any rights or legitimate interests held by Respondent (*Ann Summers Limited v. Domains By Proxy, LLC / Mingchun Chen*, WIPO Case No. [D2018-0625](#); *Carrefour v. WhoisGuard, Inc., WhoisGuard Protected / Robert Jurek, Katrin Kafut, Purchasing clerk, Starship Tapes & Records*, WIPO Case No. [D2017-2533](#)).

The Panel finds that these circumstances do not confer upon Respondent any rights or legitimate interests in respect of the Domain Name.

Complainant has established Policy, paragraph 4(a)(ii).

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy provides that the following circumstances, “in particular but without limitation”, are evidence of the registration and use of the Domain Name in “bad faith”:

- (i) circumstances indicating that Respondent has registered or has acquired the Domain Name primarily for the purpose of selling, renting, or otherwise transferring the Domain Name registration to Complainant who is the owner of the trademark or service mark or to a competitor of Complainant, for valuable consideration in excess of its documented out of pocket costs directly related to the Domain Name; or

- (ii) that Respondent has 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 Respondent has engaged in a pattern of such conduct; or
- (iii) that Respondent has registered the Domain Name primarily for the purpose of disrupting the business of a competitor; or
- (iv) that by using the Domain Name, Respondent has intentionally attempted to attract, for commercial gain, Internet users to Respondent's website or other online location, by creating a likelihood of confusion with Complainant's mark as to the source, sponsorship, affiliation, or endorsement of Respondent's website or location or of a product or service on Respondent's website or location.

The Panel concludes that Respondent has registered and used the Domain Name in bad faith.

Because Complainant's mark had been widely used and registered by Complainant before the Domain Name registration and noting the worldwide notoriety of the TIK TOK trademark and the content of the Website containing apps under the name "TikTok 18 Plus", it is clear that Respondent had Complainant's mark in mind when registering the Domain Name (*Tudor Games, Inc. v. Domain Hostmaster, Customer ID No. 09382953107339 dba Whois Privacy Services Pty Ltd / Domain Administrator, Vertical Axis Inc.*, WIPO Case No. [D2014-1754](#); *Parfums Christian Dior v. Javier Garcia Quintas and Christiandior.net*, WIPO Case No. [D2000-0226](#)).

Furthermore, the content of the Website gives the impression that it originates from Complainant, displaying Complainant's trademark, thereby giving the false impression that the Website emanates from Complainant or is authorised by it. This further supports registration in bad faith reinforcing the likelihood of confusion, as Internet users are likely to consider the Domain Name as in some way endorsed by or connected with Complainant ([WIPO Overview 3.0](#), section 3.1.4).

The above further indicates that Respondent knew of Complainant and chose the Domain Name with knowledge of Complainant and its industry (*Safepay Malta Limited v. ICS Inc*, WIPO Case No. [D2015-0403](#)).

As regards bad faith use, Complainant demonstrated that the Domain Name is employed to host a Website which appears falsely to be that of Complainant or authorised by Complainant. The Domain Name has been operated by intentionally creating a likelihood of confusion with Complainant's trademark and business. This supports the finding of bad faith use (*Arkema France v. Aaron Blaine, supra*; *Aktiebolaget Electrolux v. Priscilla Quaiotti Passos*, WIPO Case No. [D2011-0388](#); and [WIPO Overview 3.0](#), sections 3.1.4 and 3.2.1). See also *Bytedance Ltd., Beijing Bytedance Technology Co. Ltd v. PrivacyGuardian.org / Franz Augusto*, WIPO Case No. [D2021-3036](#) on a website offering an app called "Tiktok 18+" featuring "Adult Videos on Tiktok".

Furthermore, Respondent's use contravenes TikTok's Terms of Service, para. 5, which specifically prohibits "any material which is defamatory of any person, obscene, offensive, pornographic, hateful or inflammatory".

Last, the Panel considers the apparent concealment of the Domain Name holder's identity through use of a privacy shield at the time of filing the complaint, to be further indicative of bad faith (*BHP Billiton Innovation Pty Ltd v. Domains By Proxy LLC / Douglass Johnson*, WIPO Case No. [D2016-0364](#)).

Under these circumstances and on this record, the Panel finds that Respondent registered and used the Domain Name in bad faith.

Complainant has established Policy, paragraph 4(a)(iii).

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 Domain Name, <tiktok18free.com> be transferred to Complainant.

/Marina Perraki/

Marina Perraki

Sole Panelist

Date: November 9, 2023