

ADMINISTRATIVE PANEL DECISION

TikTok Ltd. v. Jessica Lankford

Case No. D2023-3817

1. The Parties

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

The Respondent is Jessica Lankford, United States of America (“United States”).

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 13, 2023. On September 13, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 13, 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 (Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 14, 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 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 the Respondent of the Complaint, and the proceedings commenced on September 22, 2023. In accordance with the Rules, paragraph 5, the due date for Response was October 12, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 16, 2023.

The Center appointed Zoltán Takács as the sole panelist in this matter on October 24, 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 serves as a host for the content created by its users.

The Complainant's services are available in more than 150 markets and in 75 languages worldwide.

Since its launch in 2017 in the Google Play Store more than 1 billion users have downloaded the Complainant's Tik Tok app.

In 2022, Tik Tok was the most downloaded app in the United States and globally.

The Complainant owns a number of trademark registrations for the word mark TIK TOK in various jurisdictions, *e.g.*:

- the United States Trade Mark Registration No. 5653614, registered on January 15, 2019 for goods and services of classes 9, 38, 41 and 42 of the Nice Agreement Concerning the International Classification of Good and Services for the Purpose of the Registration of Marks.

The Complainant also has a large Internet presence through its primary website "www.tiktok.com", which had a total of two billion visitors in March of 2023 alone, making it the 15th most popular website globally and 21st most popular website in the United States.

The corresponding domain name <tiktok.com> was registered on July 21, 1996.

The disputed domain name was registered on May 6, 2023 and resolves to a website that features the Complainant's trademark and signature logo and promotes explicit sexual content.

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 name.

Notably, the Complainant contends that:

- the disputed domain name is confusingly similar to its TIK TOK trademark, since it incorporates the trademark with the addition of the number "18";

- the Respondent has no rights or legitimate interests in respect of the disputed domain name, and

- the Respondent registered the disputed domain name in order to unlawfully benefit from the goodwill built up by the Complainant in the TIK TOK trademark and in addition, linking of the disputed domain name to a website with pornographic content is harmful for the Complainant's brand image and could tarnish its trademark and reputation.

The Complainant requests that the disputed domain name be transferred from the Respondent to the Complainant.

B. Respondent

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

6. Discussion and Findings

Paragraph 15(a) of the Rules requires that the Panel's decision be made "on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable".

A Complainant must evidence each of the three elements required by paragraph 4(a) of the Policy in order to succeed on the complaint, namely that:

- (i) the domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights;
- (ii) the 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

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 of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[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 entirety of the Complainant's trademark is reproduced in the disputed domain name. The only difference between the trademark and the disputed domain name is the addition of the number "18" to the trademark in the disputed domain name, which does not prevent a finding of confusing similarity. [WIPO Overview 3.0](#), section 1.8.

The applicable Top Level Domain ("TLD") in the disputed domain name (in this case ".chat"), which is a standard registration requirement is disregarded under the first element confusing similarity test. [WIPO Overview 3.0](#), section 1.11.1.

Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

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

B. 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 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 that the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. 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 name such as those enumerated in the Policy or otherwise.

The Panel considers that the record of this case reflects that:

- before any notice to the Respondent of the dispute, the Respondent did not use, nor has made demonstrable preparations to use the disputed domain name or a name corresponding to the disputed domain name in connection with a *bona fide* offering of goods or services. Paragraph 4(c)(i) of the Policy, and [WIPO Overview 3.0](#), section 2.2;
- the Respondent (as an individual, business, or other organization) has not been commonly known by the disputed domain name. Paragraph 4(c)(ii) of the Policy, and [WIPO Overview 3.0](#), section 2.3;
- the Respondent is not making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue. Paragraph 4(c)(iii) of the Policy, and [WIPO Overview 3.0](#), section 2.4, and
- the record contains no other factors demonstrating rights or legitimate interests of the Respondent in the disputed domain name.

The Respondent's use of the disputed domain name in connection with a website of explicit sexual content does not correspond to any of the circumstances set forth in paragraph 4(c) of the Policy.

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

C. 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 the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

The Panel considers that the record of this case reflects that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other on-line locations, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website or location or of a product or service on the Respondent's website or location. Paragraph 4(b)(iv) of the Policy, and [WIPO Overview 3.0](#), section 3.1.4.

The Respondent has incorporated the Complainant's distinctive TIK TOK trademark in the disputed domain name and the website at the disputed domain name prominently features the Complainant's trademark and signature logo. Hence, in the Panel's view it is not at all plausible that the Respondent registered the disputed domain name without actual knowledge and intent of targeting the Complainant and its trademark.

In addition, the Respondent's use of the disputed domain name to divert Internet users to a website of explicit sexual content could reasonably be supposed to tarnish the Complainant's mark and can itself constitute bad faith. [WIPO Overview 3.0](#), section 3.12. and *CCA Industries, Inc. v. Bobby R. Dailey*, WIPO Case No. [D2000-0148](#).

Based on the available record, the Panel finds that 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 name <tiktok18.chat> be transferred to the Complainant.

/Zoltán Takács/

Zoltán Takács

Sole Panelist

Date: November 7, 2023