

## **ADMINISTRATIVE PANEL DECISION**

TikTok Ltd. v. pritam chowdhury  
Case No. D2023-3979

### **1. The Parties**

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

The Respondent is pritam chowdhury, India.

### **2. The Domain Name and Registrar**

The disputed domain name <tiktok18.biz> is registered with NameCheap, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 22, 2023. On September 25, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 25, 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 (Redacted for Privacy, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 26, 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 28, 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 29, 2023. In accordance with the Rules, paragraph 5, the due date for Response was October 19, 2023. The Respondent did not submit any formal response. Accordingly, the Center notified the Commencement of Panel Appointment Process on October 20, 2023. The Respondent sent email communications to the Center on September 30, October 21 and 26, 2023. The Center sent a possible settlement email to the Parties on October 2, 2023. The Complainant sent

an informal communication to the Center on October 27, 2023, but did not request a suspension of the proceedings.

The Center appointed Zoltán Takács 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**

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 of America ("United States") and globally.

The Complainant's parent company Bytedance Ltd. among others owns the following trademark registrations in India, the Respondent's apparent domicile:

- Trade Mark Registration No. 3960172 for the word mark TIK TOK, registered on September 29, 2018, for goods and services of classes 16, 18, 20, 26, 41, and 45 of the Nice Agreement Concerning the International Classification of Good and Services for the Purpose of the Registration of Marks ("Nice Classification"), and
- Trademark Registration No. 3853842 for a figurative trademark, registered on June 7, 2018, for services of class 35 of the Nice Classification (hereinafter also referred to as "trademarks").

The Complainant has a large Internet presence through its primary website "www.tiktok.com", which had a total of 2.3 billion visitors between June and August of 2023, making it the 14th 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 November 1, 2022, and resolved to a website that featured the Complainant's trademarks and promoted explicit sexual content. Currently, the disputed domain name does not resolve to an active website.

#### **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 the 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 in the well-known 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 file a formal Response to the Complaint but sent a couple of informal emails to the Center, which do not contain any argumentation against the facts and evidence presented by the Complainant in support of its claim.

For example, the September 30, 2023 dated email of the Respondent reads:

“I have already closed all of my websites that you are Claiming to containing your trademarks, I do not have any kind of rights to edit or promote the application And that's why I'm sending you this message. I want the clearance of all kinds of problems But one thing you should know that Check chatGptapp.us or whatever it was, It's not my property I have already sold it in Namecheap so do your research first then claim it. To sum up, I want you guys to do not disturb me again by sending a couple of emails and attachments on my email. It's very frustrating, and I won't tolerate this again.We are done now.”

On October 26, 2023, the Respondent sent another email to the Center, which reads:

“Hello in the last email from you said that ‘As per the latest emails from WIPO, this case has now commenced. Please let us know if you would like to resolve this matter amicably by agreeing to transfer the domain name to TikTok. If you do agree to a voluntary transfer, I will request to suspend the case.’ and I said this ‘ Yes, I agree. Transfer domains and I don't want to continue this case, I will request you to suspend the case.”

## **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. A trademark owner's affiliate such as a subsidiary of a parent or of a holding company, or an exclusive trademark licensee, is considered to have rights in a trademark under the UDRP for purposes of standing to file a complaint. [WIPO Overview 3.0](#), section 1.4.1.

The entirety of the TIK TOK 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 “.biz”), which is a standard registration requirement is generally 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 featuring the Complainant’s trademark, allegedly offering for download an application in competition with that of the Complainant, and generally offering 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.

It has been well-established in prior decisions under the UDRP, with which the Panel agrees, that the Complainant's TIK TOK trademark is well known (see *e.g. Bytedance Ltd. v. Stanley Billy, Natasha Selly*, WIPO Case No. [D2020-1749](#) and *Bytedance Ltd., Beijing Bytedance Technology Co. Ltd v. PrivacyGuardian.org / Franz Augusto*, WIPO Case No. [D2021-3036](#)). UDRP panels have consistently found that 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. [WIPO Overview 3.0](#), section 3.1.4.

The Respondent replicated the well-known TIK TOK trademark in the disputed domain name and the website at the disputed domain name prominently featured the Complainant's trademarks. Hence, in the Panel's view the Respondent clearly had the TIK TOK trademark in mind at the time of registration and that it registered the disputed domain name in order to target the Complainant and its well-known trademark within the meaning of paragraph 4(b)(iv) of the Policy.

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](#).

Currently, the disputed domain name does not resolve to an active website. However, having reviewed the record, the Panel notes the distinctiveness and well-known status of the Complainant's trademark, the composition of the disputed domain name as mentioned above, the Respondent's failure to provide any good faith explanation as to its registration of the disputed domain name, as well as that any good faith use to which the disputed domain name may be put appears to be implausible. Accordingly, the Panel finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy. [WIPO Overview 3.0](#), section 3.3.

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.biz> be transferred to the Complainant.

*/Zoltán Takács/*

**Zoltán Takács**

Sole Panelist

Date: November 9, 2023