

ADMINISTRATIVE PANEL DECISION

Tencent Holdings Limited v. haisong huanghaisong
Case No. DAI2023-0022

1. The Parties

The Complainant is Tencent Holdings Limited, Cayman Islands, United Kingdom, represented by Kolster Oy Ab, Finland.

The Respondent is haisong huanghaisong, Hong Kong, China.

2. The Domain Name and Registrar

The disputed domain name <tencentcloud.ai> 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 6, 2023. On September 6, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same day, 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 7, 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 amendment to the Complaint on September 12, 2023.

The Center verified that the Complaint together with the amendment to the 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 15, 2023. In accordance with the Rules, paragraph 5, the due date for Response was October 5, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 16, 2023.

The Center appointed Pablo A. Palazzi as the sole panelist in this matter on October 17, 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, headquartered in Shenzhen, China, is a global Internet and technology company established in 1998. The Complainant provides Internet, mobile and telecommunication services and products, including entertainment, and artificial intelligence. Such products include QQ instant messenger, social media application WeChat, Tencent Games, Tencent Video, Tencent News, and Tencent Sports.

The Complainant or through its related company owns several registered trademarks with the TENCENT mark worldwide, including in China, the European Union, and the United States of America, for example:

- Chinese trademark registration No. 1752676, registered on April 21, 2002;
- European Union Trade Mark registration No. 006033773, registered on November 18, 2008; and
- United States of America trademark registration No. 5980417, registered on February 11, 2020.

The Complainant has operated its business through its website at “www.tencent.com” since 1998.

The disputed domain name was registered on March 8, 2023, and reverts to a website with no substantive content. However, the website contains a legal disclaimer written in Chinese and English together with which appears to be the Respondent’s email address and WeChat name, indicating:

“This website and its domain name are generic, multi-meaning, descriptive domain names, independently privately owned, non-commercial operations, and not affiliated with any company, organization, or trademark. No goods or commercial services are ever offered here. If you think it’s unexpected, please check your spelling or use a search engine.

This website and domain name can be: generic domain name, person name, pet, project, item, place, number, fictitious person, fictitious event.

This website and domain names are generic, multi-meaning, descriptive domain names, independently privately owned, non-commercial operations, and not affiliated with any company, organization, or trademark. No goods or commercial services are ever offered here. Please check your spelling or use a search engine if you think you are coming unexpectedly.

We are always exploring new Internet models. Until now, this was the default website for domain name holders to prepare and receive voluntary comments from visitors for future projects. [...]

If you wish to contact us, please refer to our contact information.

Contact us and any information on the website does not constitute an offer for a domain name transfer, nor does it represent the domain name holder’s intention to transfer the domain name. When you contact us, you are the sole initiator of your contact with the domain name holder.”

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 trademarks;
- the Respondent has no rights or legitimate interests in respect of the disputed domain name;
- the Respondent has registered and is using the disputed domain name in bad faith.

B. Respondent

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

6. Discussion and Findings

Paragraph 4(a) of the Policy lists three elements, which a complainant must satisfy in order to succeed. The Complainant must satisfy that:

- (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

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

While the addition the term "cloud" may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name 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.

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 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 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 legal disclaimer on the website at the disputed domain name indicates that the disputed domain name is generic, multi-meaning, and descriptive (or indeed that it can be a person name, pet, project, item, place, number, fictitious person or fictitious event). However, the Panel finds that the Complainant's TENCENT trademark is distinctive and the additional term "cloud" in the disputed domain name is closely related to the Complainant's business. Therefore, the composition of the disputed domain name is inherently misleading as it effectively impersonates or suggests sponsorship or endorsement by the Complainant. Such composition cannot constitute fair use. [WIPO Overview 3.0](#), section 2.5.1.

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 Complainant's trademarks have been registered and in use for more than 20 years before the Respondent registered the disputed domain name;
- the Complainant is also well established and well known in China (*Tencent Holdings Limited v. 许经纬 (xu jing wei)*, WIPO case No. [D2023-2069](#)); thus the Panel therefore finds that the Respondent's awareness of the Complainant's trademark rights at the time of registration suggests bad faith.
- the Respondent registered a domain name including the Complainant's distinctive and well-known trademark with the addition of the term "cloud", a term being descriptive of the Complainant services. Therefore, the Panel finds that the disputed domain name may not be put into any good faith use;
- the Respondent has been a party in another UDRP case where it was held that the Respondent has acted in bad faith in registering the disputed domain name (see *Calvin Klein, Inc. v. haisong huanghaisong*, WIPO Case No. [DAI2023-0017](#));
- the invitation to contact the Respondent on the website at the disputed domain name appears to demonstrate the Respondent's intention to sell the disputed domain name;
- Panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly incorporating the mark plus a descriptive term) 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.

Considering the above, the Panel finds that the Respondent has registered and is using the disputed domain name in bad faith. Further, the mere existence of a legal disclaimer on the website at the disputed domain name under the circumstances of this case cannot cure the Respondent's bad faith. [WIPO Overview 3.0](#), section 3.7.

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 name <tencentcloud.ai> be transferred to the Complainant.

/Pablo A. Palazzi/

Pablo A. Palazzi

Sole Panelist

Date: October 27, 2023