

ADMINISTRATIVE PANEL DECISION

Tencent Holdings Limited v. 张颖 (Zhang Ying)
Case No. DAI2023-0031

1. The Parties

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

The Respondent is 张颖 (Zhang Ying), China, self-represented.

2. The Domain Name and Registrar

The disputed domain name <webank.ai> is registered with HooYoo Information Technology Co. Ltd. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 20, 2023. On September 21, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 17, 2023, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 October 18, 2023. In accordance with the Rules, paragraph 5, the due date for Response was November 7, 2023. The Respondent submitted its response on October 27, 2023.

The Center appointed W. Scott Blackmer as the sole panelist in this matter on November 10, 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 the holding company for a multinational technology group formed in 1998 and headquartered in Shenzhen, China. The Complainant is established as a limited company under English law in the British Overseas Territory of the Cayman Islands. Its shares have been traded on the Hong Kong Stock Exchange since 2004. The Wikipedia article on “Tencent” cites published sources indicating that the Complainant is the most valuable publicly traded company in China and the world’s tenth most valuable company by market value as of February 2022. The group is a leading provider of Internet, mobile, and telecommunication services and products in China and globally. These services and products include QQ instant messenger, WeChat (social media), the games platform WeGame, Tencent Games, Tencent Video, Tencent News, Tencent Sports, and WeCom (enterprise communications).

The Complainant operates a principal website in multiple languages at “www.tencent.com”. The Complainant’s website highlights both its innovations in artificial intelligence (“AI”) and its financial services applications such as WeChat Pay.

In 2014 the Complainant and other investors formed WeBank Co., Ltd. (“WeBank”), a private digital bank based in Shenzhen, China, which operates a website in Chinese and English at “www.webank.com”, launched in 2014. The record includes information showing that the full name of this Chinese limited company in English is Shenzhen Qianhai WeBank Co., Ltd. and that a subsidiary of the Complainant holds a 30% beneficial ownership share. WeBank offers online banking services for individuals and businesses, with Internet and mobile applications including “WeBank Fortune Plus” and “WeBank Enterprise App”.

WeBank Co., Ltd. holds trademark registrations for WEBANK in several countries, including the following:

MARK	JURISDICTION	REGISTRATION NUMBER	REGISTRATION DATE	GOODS OR SERVICES
WEBANK (word)	India	4016836	December 4, 2018	IC classes 9, 16, 35, 36, 38, 41, 42
WEBANK (word)	United Kingdom	UK00003357620	April 19, 2019	IC classes 9, 16, 35, 36, 38, 41, 42
WEBANK (word)	United States of America	6166772	October 6, 2020	IC classes 9, 16, 35, 36, 38, 41, 42

The record includes evidence of the global recognition of the WEBANK mark, prominently an article in “Asian Banker” dated November 2, 2022, reporting that WeBank attained the largest digital banking customer base worldwide in 2022, and WeBank’s number one position in the “Global TOP 100 Digital Bank Ranking 2023”.

The Registrar reports that the disputed domain name was registered on September 16, 2020, by the Respondent Zhang Ying, listing no organization and showing a postal address in Guangdong province, China. The Response does not further identify the Respondent or the Respondent’s business.

At the time of this proceeding, the disputed domain name does not resolve to an active website. The Panel notes that the Internet Archive’s Wayback Machine has two archived screenshots associated with the disputed domain name, from March 2022, and December 2021, both simply advertising the disputed domain name for sale in English and Chinese, with the same contact email address used for the Respondent.

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. The Complainant asserts that the disputed domain name is identical or confusingly similar to its registered WEBANK trademark, which the Respondent has no permission to use.

The Complainant contends that the Respondent has not made use of the disputed domain name and does not appear to be known by a corresponding name.

The Complainant cites the “passive holding” doctrine to argue that the Respondent acted in bad faith by registering a domain name consisting entirely of the Complainant’s distinctive and well-known mark, with no plausible good-faith use in contemplation:

“Considering that the Complainant has been using and registering the trademark WeBank since 2015, it is inconceivable that the Respondent would not have been aware of the Complainants’ trademarks when registering the disputed domain name. [...]

The Complainant refers to previous Panel decisions which found that the passive holding of a domain name may amount to bad faith when it is difficult to imagine any plausible future active use of the disputed domain name by the Respondent that would be legitimate and not infringing the Complainant’s well-known mark. (See *Inter-IKEA v. Polanski*, WIPO Case No. [D2000-1614](#); *Inter-IKEA Systems B.V. v. Hoon Huh*, WIPO Case No. [D2000-0438](#); *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#)).

B. Respondent

The Response, which is not signed or accompanied by the requisite certification of accuracy and completeness (see Rules, paragraph 5(c)(viii)), argues against the fame of the WEBANK mark and the Complainant’s interests in the mark. The Respondent claims good faith and contends that the Complainant has no business or trademark protection in Anguilla, the source of the “.ai” top-level country code in the disputed domain name:

“Shenzhen Qianhai WeBank Co., Ltd. independently operates the website ‘www.webank.com’ and holds the WEBANK trademark ...” but “Tencent only holds 30 [per cent] of the shares” and “[WeBank’s] business is limited to mainland China ...”

“WEBANK itself is not an internationally recognized brand or trademark...”

“Although Tencent is an internationally renowned Chinese Internet company, it cannot be inferred that all of its products, trademarks, brands or the companies it invests in are internationally renowned...”

“The suffix of the [disputed] domain name is ‘AI’, which represents the country Anguilla. ‘Shenzhen Qianhai WeBank Co., Ltd.’ has no registered trademark or brand in this country, nor does it conduct business in this country... We can infer that any legal individual or group has the right to register the [disputed] domain name. ...”

“The respondent registered the [disputed] domain name without any malicious intent. There is no evidence that [the disputed domain name] has engaged in any malicious behavior towards ‘Shenzhen Qianhai WeBank Co., Ltd.’, which only operates in China since its registration date. If there is no behavioral evidence or consequences for so-called malice, then it is merely irresponsible conjecture, false accusation, or slander.”

6. Discussion and Findings

Paragraph 4(a) of the Policy provides that in order to divest a respondent of a domain name, a complainant must demonstrate each of the following: (i) the 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 domain name; and (iii) the domain name has been registered and is being used in bad faith. Under paragraph 15(a) of the Rules, “[a] Panel shall decide a complaint 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. 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. Contrary to the Respondent's suggestion, it is not necessary for the Complainant itself to hold a 100 per cent ownership share in the trademark holder, WeBank Co., Ltd., for the Complainant to have enforceable rights under the Policy. In addition to being the largest shareholder, the Complainant's affiliate operates the website through which WeBank does business under the mark.

Based on the available record, the Panel finds the Complainant has established unregistered trademark or service mark rights for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.3.

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

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 Respondent has not shown that it is commonly known by a corresponding name, and there is no evidence that the Respondent has made bona fide commercial use of the disputed domain name (or demonstrable plans for such use) or legitimate noncommercial fair use of the disputed domain name. Where a Respondent claims a legitimate interest in a disputed domain name containing dictionary words or phrases (as is the case here), the Respondent must offer evidence supporting an explanation for registration indicating a credible and legitimate intent rather than an effort to capitalize on the reputation associated with the Complainant's mark. See [WIPO Overview 3.0](#), section 2.10. The Respondent has not done so here. The Complainant's mark is distinctive and well known, internationally as well as in China where the Respondent is located, and the Respondent has not offered evidence, for example, of registering and then developing or selling other domain names comprised of dictionary words or phrases for non-infringing uses. It is also noted that panels have found that domain names identical to a complainant's trademark carry a high risk of implied affiliation. See [WIPO Overview 3.0](#), section 2.5. Here, the disputed domain name is identical to the Complainant's trademark.

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.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Panels have found that the non-use of a domain name (including a blank or "coming soon" page) would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the record, the Panel finds the non-use of the disputed domain name does not prevent a finding of bad faith in the circumstances of this proceeding. While panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put. [WIPO Overview 3.0](#), section 3.3. Having reviewed the record, the Panel notes the distinctiveness or reputation of the Complainant's trademark, which exactly comprises the disputed domain name, and 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.

The Respondent, who is a resident of China, does not deny prior awareness of the Complainant's WEBANK mark. Instead, the Respondent argues that the Complainant's mark is not well known outside mainland China, where WeBank exclusively does business, and the Respondent is free to use a ".ai" domain name from Anguilla, where WeBank does not do business and has no registered trademark. To the contrary, the record demonstrates that WeBank is a Chinese-based digital bank that attracts customers from around the world, and that the WEBANK mark is globally recognized. The ".ai" country code Top-Level Domain is not restricted for use by persons operating in the British Overseas Territory of Anguilla but is popular with companies, such as the Complainant, that are involved in artificial intelligence ("AI") projects and offerings. Thus, the Respondent's reasoning is specious, and in the absence of any evidence supporting a good faith interest in the disputed domain name, the Panel finds that the Respondent most likely registered it in an effort to exploit the Complainant's distinctive and well-established WEBANK mark.

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 <webank.ai> be transferred to the Complainant.

/W. Scott Blackmer/

W. Scott Blackmer

Sole Panelist

Date: November 24, 2023