

ADMINISTRATIVE PANEL DECISION

Bytedance Ltd. v. Kustrin Maksim and Mohamed Alttar
Case No. D2022-1275

1. The Parties

The Complainant is Bytedance Ltd., United Kingdom, represented by CSC Digital Brand Services Group AB, Sweden.

The Respondents are Kustrin Maksim, Georgia (the “Respondent 1”) and Mohamed Alttar, Palestine (the “Respondent 2”).

2. The Domain Name and Registrars

The disputed domain name <tiktok-coins.com> is registered with RU-CENTER-MSK (Regional Network Information Center, JSC dba RU-CENTER).

The disputed domain name <tiktok-coins.store> is registered with GoDaddy.com LLC.

Hereinafter, the disputed domain names will be collectively referred to as the “Domain Names”.

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on April 8, 2022. On April 11, 2022, the Center transmitted by email to RU-CENTER-MSK a request for registrar verification in connection with the disputed domain name <tiktok-coins.com>. On April 20, 2022, the Complainant submitted an amended Complaint to add the disputed domain name <tiktok-coins.store> in the proceeding. On the same day, the Center transmitted by email to GoDaddy.com LLC a request for registrar verification in connection with the disputed domain name <tiktok-coins.store>.

On April 20, 2022, the GoDaddy.com LLC transmitted by email to the Center its verification response disclosing registrant and contact information for the <tiktok-coins.store>. which differed from the named Respondent and contact information in the Complaint.

The Center sent an email communication to the Complainant on April 21, 2022, providing the registrant and contact information disclosed by the Registrars, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on April 22, 2022.

RU-CENTER-MSK confirmed that the language of the Registration Agreement for the disputed domain name <tiktok-coins.com> is Russian. On April 19, 2022, the Center sent an email communication to the Parties in both English and Russian regarding the language of the proceeding. The Complainant confirmed its request that English be the language of the proceeding on April 20, 2022. The Respondents did not comment on the language of the proceeding.

On April 22, 2022, the Respondent 2 sent an email communication to the Center. On April 25, 2022, the Center provided the Respondent 2 with the guidelines with respect to the course of this proceedings.

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 Respondents of the Complaint in both English and Russian, and the proceedings commenced on May 4, 2022. In accordance with the Rules, paragraph 5, the due date for Response was May 24, 2022. The Respondents did not submit any response.

The Center appointed Piotr Nowaczyk as the sole panelist in this matter on June 2, 2022. 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 in the present proceeding, is an Internet technology company. It owns a series of content platforms that enable people to connect with diverse content through machine learning technology. Such content platforms include TikTok, which enables Internet users to create and upload short videos and serves as a host for the content created by its users. Currently, TikTok is available in more than 150 different markets, in 75 languages. In Google Play, more than 500 million users have downloaded TikTok app.

The Complainant is the owner of numerous TIKTOK trademark registrations, including:

- the International Registration TIKTOK No. 572059 registered on August 20, 2020;
- the European Union Registration TIKTOK No. 017913208 registered on October 20, 2018;
- the Russian Federation Registration TIKTOK No. 699457 registered on February 19, 2019.

The Complainant's primary domain name incorporating its TIKTOK trademark is <tiktok.com>.

The Respondent 1 registered the domain name <tiktok-coins.com> on January 6, 2022. The Respondent 2 registered the domain name <tiktok-coins.store> on April 10, 2022.

In accordance with the screenshots attached to the Complaint, at the time of drafting the Complaint, the Domain Names resolved to the websites offering allegedly TikTok virtual coins (the "Websites"). As of the date of this Decision, the domain name <tiktok-coins.com> resolves to a website used in the same manner as indicated above, while the domain name <tiktok-coins.store> resolves to an inactive website.

5. Parties' Contentions

A. Complainant

The Complainant requests that the Domain Names be transferred to the Complainant. According to the Complainant, each of the three elements specified in paragraph 4(a) of the Policy are satisfied in the present

case.

First, the Complainant submits that the Domain Names are confusingly similar to the TIKTOK trademark registrations of the Complainant.

Second, the Complainant argues that the Respondent has neither rights nor legitimate interests in the Domain Names.

Third, the Complainant submits that the Domain Names were registered and are being used in bad faith.

B. Respondents

The Respondents did not reply to the Complainant's contentions. The Respondent 2 submitted an informal email on April 22, 2022 stating: "My domain is mine How do you close the domain and it is mine I bought it from you. How do you sell a domain and then close it. I file a complaint with you."

6. Discussion and Findings

Paragraph 4(a) of the Policy places a burden on the Complainant to prove the presence of three separate elements, which can be summarized as follows:

(i) the Domain Names are 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 the Domain Names; and

(iii) the Domain Names have been registered and are being used in bad faith.

The requested remedy may only be granted if the above criteria are met.

At the outset, the Panel notes that the applicable standard of proof in UDRP cases is the "balance of probabilities" or "preponderance of the evidence". See section 4.2 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

A. Consolidation of the Respondents

The Complainant has submitted the amended Complaint against multiple Respondents.

Paragraph 3(c) of the Rules provides that the complaint may relate to more than one domain name, provided that the domain names are registered by the same domain-name holder. Moreover, pursuant to section 4.11.2 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), where a complaint is filed against multiple respondents, panels look at whether (i) the domain names or corresponding websites are subject to common control, and (ii) the consolidation would be fair and equitable to all parties. Procedural efficiency would also underpin panel consideration of such a consolidation scenario.

In the present case, the Panel accepts that the Respondents' use of both Domain Names in a similar fashion, as well as almost identical content of the Websites, provides significant evidence that the Domain Names are owned and/or controlled by a common individual/entity. Additionally, the naming format is highly similar for both Domain Names (*i.e.* the use of the term "coins"). Finally, the Websites connected to both Domain Names are hosted with Cloudflare.

Accordingly, the Panel finds that the Domain Names are subject to common control for the purposes of these proceedings. The Respondents have not denied these assertions, thus the Panel permits the consolidation

of the proceedings and refers hereinafter to both registrants of the Domain Names as the “Respondents”.

B. Language of the Proceeding

The language of the Registration Agreement for the disputed domain name <tiktok-coins.com> is Russian. Paragraph 11(a) of the Rules provides that “unless otherwise agreed by the Parties, or specified otherwise in the Registration Agreement, the language of the administrative proceeding shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding”. The Panel may also order that any documents submitted in a language other than that of the proceeding be translated.

As noted by previous UDRP panels, paragraph 11 of the Rules must be applied in accordance with the overriding requirements of paragraphs 10(b) and 10(c) of the Rules that the parties are treated equally, that each party is given a fair opportunity to present its case, and that the proceeding takes place with due expedition (see, e.g., *General Electric Company v. Edison Electric Corp. a/k/a Edison Electric Corp. General Energy, Edison GE, Edison-GE and EEEGE.COM*, WIPO Case No. [D2006-0334](#)).

The Complainant has submitted a request that the language of the proceeding be English.

The Complainant contends, *inter alia*, that it is unable to communicate in Russian. Translation of the Complaint would unfairly burden the Complainant and delay this proceedings. Furthermore, the Complainant notes that the disputed domain name <tiktok-coins.com> is comprised of Latin characters. The Website connected to domain name <tiktok-coins.com> also feature various phrases in English.

The Panel agrees that substantial additional expense and delay would likely be incurred if the Complaint had to be translated into Russian. Moreover, the Panel notes that the Respondent 1 did not comment on the language of the proceeding, even though it was notified in English and Russian regarding the language of the proceeding.

Thus, taking these circumstances into account, the Panel finds that it is appropriate to exercise its discretion and allow the proceeding to be conducted in English.

C. Identical or Confusingly Similar

The first element that the Complainant must establish is that the Domain Names are identical or confusingly similar to the Complainant’s trademark in which it has rights.

The Complainant holds valid TIKTOK trademark registrations, which precede the registration of the Domain Names.

The Domain Names incorporate the Complainant’s TIKTOK trademark in its entirety. As numerous UDRP panels have held, incorporating a trademark in its entirety is sufficient to establish that a domain name is identical or confusingly similar to a registered trademark (see *PepsiCo, Inc. v. PEPSI, SRL (a/k/a P.E.P.S.I.) and EMS Computer Industry (a/k/a EMS)*, WIPO Case No. [D2003-0696](#)).

The addition of the term “-coins” in the Domain Names does not prevent a finding of confusing similarity between the Domain Names and the Complainants’ trademark. UDRP panels have consistently held that where the relevant trademark is recognizable within the disputed domain name, the addition of other terms, whether descriptive, geographical, pejorative, meaningless, or otherwise, would not prevent a finding of confusing similarity under the first element. See section 1.8, [WIPO Overview 3.0](#).

The Top-Level Domains (“TLDs”) “.com” and “store” in the Domain Names are viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test. See section 1.11.1, [WIPO Overview 3.0](#).

Given the above, the Panel finds that the Domain Name are confusingly similar to the Complainant's trademark. Thus, the Complainant has proved the requirements under paragraph 4(a)(i) of the Policy.

D. Rights or Legitimate Interests

The second requirement the Complainant must prove is that the Respondents have no rights or legitimate interests in the Domain Names.

The respondent may establish a right or legitimate interest in the disputed domain name by demonstrating in accordance with paragraph 4(c) of the Policy any of the following:

(i) that it has used or made 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 prior to the dispute; or

(ii) that it is commonly known by the domain name, even if it has not acquired any trademark rights; or

(iii) that it intends to make a legitimate, noncommercial or fair use of the domain name without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark.

Although given the opportunity, the Respondents have not submitted any evidence indicating that any of the circumstances foreseen in paragraph 4(c) of the Policy are present in this case.

On the contrary, it results from the evidence in the record that the Complainant's TIKTOK trademark registrations predate the Respondents' registrations of the Domain Names. There is no evidence in the case file that the Complainant has licensed or otherwise permitted the Respondents to use the TIKTOK trademark or to register the Domain Names incorporating this trademark. There is also no evidence to suggest that the Respondents have been commonly known by the Domain Names.

Moreover, it results from the evidence in the record that the Respondents do not make use of the Domain Names in connection with a *bona fide* offering of goods or services, as well as they do not make a legitimate, noncommercial or fair use of the Domain Names without intent for commercial gain.

On the contrary, the Respondents use the Domain Names to attract Internet users to the Websites, which attempt to duplicate the Complainant's official website "www.tiktok.com/recharge" where the TikTok users may purchase virtual coins. The Websites copy the layout, text and colour scheme of the Complainant's official website, as well as display the Complainant's logo. In such a manner the Domain Names are used to deceive Internet users into believing that they are associated with the Complainant in order to allegedly sell them the virtual coins. Once interested users click on the amounts of virtual coins they are interested in, their credit card information is requested. Thus, the Domain Names are used for phishing of personal and financial information from the Complainant's customers. Such use of the Domain Names does not constitute a *bona fide* offering of goods and services, as well as does not qualify as a legitimate, noncommercial or fair use without intent for commercial gain.

Given the above, the Respondent has failed to invoke any circumstances, which could demonstrate, pursuant to paragraph 4(c) of the Policy, any rights or legitimate interests in respect of the Domain Names. Thus, there is no evidence in the case file that refutes the Complainant's *prima facie* case. The Panel concludes that the Complainant has also proved the requirement under paragraph 4(a)(ii) of the Policy.

E. Registered and Used in Bad Faith

The third requirement the Complainant must prove is that the Domain Names have been registered and are being used in bad faith.

Bad faith under the UDRP is broadly understood to occur where a respondent takes unfair advantage of or otherwise abuses a complainant's mark. See section 3.1, [WIPO Overview 3.0](#).

Under paragraph 4(b) of the Policy, evidence of bad faith registration and use includes without limitation:

(i) circumstances indicating the domain name was registered or acquired primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the owner of a trademark or to a competitor of the trademark owner, for valuable consideration in excess of the documented out-of-pocket costs directly related to the domain name; or

(ii) circumstances indicating that the domain name were registered in order to prevent the owner of a trademark from reflecting the mark in a corresponding domain name, provided it is a pattern of such conduct; or

(iii) circumstances indicating that the domain name was registered primarily for the purpose of disrupting the business of a competitor; or

(iv) circumstances indicating that the domain name has intentionally been used in an attempt to attract, for commercial gain, Internet users to a website or other online location, by creating a likelihood of confusion with a trademark as to the source, sponsorship, affiliation, or endorsement of the website or location or of a product or service on a website or location.

As indicated above, the Complainant's rights in the TIKTOK trademark predate the registration of the Domain Names. This Panel finds that the Respondents were or should have been aware of the Complainant's trademark at the time of registration of the Domain Names. This finding is supported by the content of the Websites impersonating the Complainant. Moreover, it has been proven to the Panel's satisfaction that the Complainant's TIKTOK trademark is well known and unique to the Complainant. Thus, the Respondents could not likely reasonably ignore the reputation of products and services under this trademark. In sum, the Respondents in all likelihood registered the Domain Names with the expectation of taking advantage of the reputation of the Complainant's TIKTOK trademark.

Moreover, the Complainant presented evidence that the Domain Names are used in bad faith by the Respondents to attract Internet users to the Websites allegedly selling the TikTok virtual coins and tricking them into revealing sensitive personal and financial information. Thus, this Panel finds that the Respondents use the Domain Name in an attempt to attract, for commercial gain, Internet users to the Websites by creating a likelihood of confusion with the TIKTOK trademark as to the source, sponsorship, affiliation, or endorsement of the Websites or the activity carried out through the Websites by the Respondents.

For the reasons discussed above, the Panel finds that the Complainant has proved the requirements under paragraph 4(a)(iii) of the Policy.

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 Names <tiktok-coins.com> and <tiktok-coins.store> be transferred to the Complainant.

/Piotr Nowaczyk/

Piotr Nowaczyk

Sole Panelist

Date: June 9, 2022