

## **ADMINISTRATIVE PANEL DECISION**

Bytedance Ltd. v. Russ Jane  
Case No. D2022-3463

### **1. The Parties**

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

The Respondent is Russ Jane, United States of America ("United States").

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

The disputed domain names <tti.social> and <ttitoken.com> are registered with GoDaddy.com, LLC (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on September 19, 2022. On September 19, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On September 19, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on September 21, 2022, 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 22, 2022.

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 26, 2022. The initial due date for Response was October 16, 2022. The Respondent sent an email communication to the Center on September 27, 2022. The proceeding was suspended on October 5, 2022 following a request by the Complainant of the same date, and was re-instituted on November 7, 2022. In accordance with the Rules, paragraph 5, the due date for Response was November 18, 2022. On November 8, 2022, the Complainant requested the inclusion of

the domain name <tiktokerinu.com> in the present proceeding. The Respondent did not submit a formal Response. On November 21, 2022, the Center informed the Parties that it will proceed to Panel Appointment.

The Center appointed Assen Alexiev as the sole panelist in this matter on November 29, 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.

On November 30, 2022, the Complainant withdrew its request to add the domain name <tiktokerinu.com> to the current proceeding.

#### **4. Factual Background**

The Complainant is an Internet technology company that operates a series of online content platforms, including TikTok, launched in May 2017, which is the Complainant's platform and mobile application for video sharing social networking services. It is available in more than 150 markets in 75 languages and is the leading destination for short-form mobile video. TikTok enables users to create and upload short self-directed videos and serves as a host for the content created by its users. TikTok became the most downloaded application in the United States in October 2018. The application has been downloaded by more than 500 million users in Google Play, and is ranked as "#1 in Entertainment" in the Apple Store.

The Complainant is the owner of the United States trademark TIK TOK with registration No. 5653614, registered on January 15, 2019 for goods and services in International Classes 9, 38, 41 and 42 (the "TIK TOK trademark"). The Complainant is also the owner of the Indian trademark TT4G with registration No. 4400750, registered on January 7, 2020 for goods and services in International Classes 9, 38, 41 and 42 (the "TT4G trademark").

The Complainant's domain name <tiktok.com> was acquired by it in May 2018. It resolves to the Complainant's official website for its TikTok platform. According to SimilarWeb.com, this website had a total of 1.5 billion million visitors in February 2022, making it the 15th most popular website globally and 21st in the United States.

The disputed domain name <titi.social> was registered on March 11, 2022, and the disputed domain name <ttitoken.com> was registered on March 30, 2022. They resolve to websites that display the Complainant's logo and operate under the name "TikToker Inu" or "TTI" to offer marketing services to TikTok users and a platform to connect TikTokers with Crypto projects.

#### **5. Parties' Contentions**

##### **A. Complainant**

The Complainant states that the disputed domain names are confusingly similar to its TIK TOK trademark, because the disputed domain names contain an abbreviated form of the Complainant's TIK TOK trademark with the addition of the letter "i" and the dictionary word "token" in one of them. The Complainant notes that the disputed domain names are also confusingly similar to the Complainant's TT4G trademark where "tt" is its dominant feature. The Complainant adds that the additional dictionary word "token" is closely linked and associated with the Complainant's brand and trademarks, and increases the confusing similarity between the disputed domain names and the Complainant's TIK TOK trademark. The Complainant explains that TikTok users can purchase and recharge virtual coins, sometimes also referred to as "tokens", using authorized payment methods and through authorized payment providers. These coins can be used to purchase virtual gifts for creators.

According to the Complainant, the Respondent has registered the disputed domain names targeting the Complainant's trademarks, and is using them to claim association or affiliation with the Complainant. The Complainant points out that the websites at the disputed domain names display the Complainant's logo and operate under the name "TikToker Inu" or "TTI" to supposedly provide marketing services to TikTok users and a platform to connect TikTokers with Crypto projects. In the Complainant's view, such use proves that the Respondent intended the disputed domain names to be confusingly similar to the Complainant's TIK TOK and TT4G trademarks, and registered them with this intention.

According to the Complainant, the Respondent has no rights or legitimate interests in respect of the disputed domain names, because the Respondent is not affiliated with the Complainant, and the Complainant has not authorized the Respondent to use the Complainant's TIK TOK trademark. The Complainant adds that the Respondent is not commonly known by the disputed domain names, as the pertinent Whois information identifies the Registrant with a name that does not resemble them.

The Complainant submits that the Respondent registered the disputed domain names in March 2022, which is after the Complainant registered its TIK TOK and TT4G trademarks and after the Complainant's first use in commerce of its TIK TOK trademark in 2017 and the Complainant's acquisition of its <tiktok.com> domain name in May 2018. The Complainant points out that it already had a worldwide reputation in its trademarks by the time the Respondent registered the disputed domain names.

The Complainant states that by naming its websites as "TTI" (abbreviation for "TikToker Inu") and using the Complainant's logo as favicon as well as within the websites' contents, the Respondent uses the disputed domain names in an effort to take advantage of the fame and goodwill that the Complainant has built in its brands and logo. The Complainant points out that the inclusion of the Complainant's trademarks and logo creates the false appearance that the disputed domain names and the associated websites are somehow affiliated with the Complainant, and the Respondent thus exploits the reputation of the Complainant's trademarks and logo to attract traffic to its websites. The Complainant notes that the Respondent attempts to offer their marketing services to unsuspecting users, provides a platform to supposedly connect tiktokers with crypto projects and promotes the purchase of their TTI tokens to support viral TikTok campaigns.

The Complainant contends that the disputed domain names were registered and are being used in bad faith. The Complainant states that it has marketed its goods and services using the TIK TOK trademark since 2017, which is well before the Respondent's registration of the disputed domain names in March 2022.

In the Complainant's view, the Respondent has knowledge of and familiarity with the Complainant's brands and business, which is shown by the current use of the disputed domain names to resolve to websites displaying the Complainant's logo and to offer marketing services, a social platform and tokens to TikTok users to cause consumer confusion in a nefarious attempt to profit from it.

## **B. Respondent**

The Respondent did not file a Response or reply to the substance of the Complainant's contentions.

With its email of September 27, 2022, the Respondent stated:

"Dear Sir / Madam, we appreciate you bringing this to the attention of our agency. We are a web design company that was paid to build a website for TTI. We had no knowledge of intellectual infringement and no participation in the events. We have been unable to reach TTI about these issues. I believe their company is closed. In any case, we have taken the following actions against the assets that we still had access to:

#1. We have deleted all contact from the ttitoken.com website and replaced it with the following disclaimer  
"\*\*\*\*This site is not part of the TikTok app, TikTok website, or TikTok Inc. Additionally, this site is NOT endorsed by TikTok in any way. TIKTOK is a trademark of TIKTOK, Inc.\*\*\*\*".

#2. We have tried to delete the domain name ttitoken.com but it is "locked" by the registrar per your request. We hereby authorize Godaddy to delete it on our behalf.

#3. We have deleted the entire domain name tiktokerinu.com from Godaddy. This domain was not locked

and therefore we could delete it.

#4. We are able to edit some portions of the TTI.social website. As such we have removed any questionable content from TTI.Social. The website now makes no mention of TikTok at all, other than the disclaimers. We added the following disclaimers on the header and footer of all web pages: “\*\*\*\*This site is not part of the TikTok app, TikTok website, or TikTok Inc. Additionally, this site is NOT endorsed by TikTok in any way. TIKTOK is a trademark of TIKTOK, Inc.\*\*\*\*”

If there is anything else I can do to help let me know.”

The Respondent claims being a web design company, and that the disputed domain names were registered to build a website for TTI. In this regard, the Panel notes the content of the website as described above, that TTI seems to be an abbreviation for “TikToker Inu”, and that no further information has been provided to identify the alleged client of the Respondent. The Panel finds in the circumstances of this case that Russ Jane, being the registrant of the disputed domain name, shall be considered as the Respondent in this proceeding.

## 6. Discussion and Findings

Pursuant to the Policy, paragraph 4(a), the Complainant must prove each of the following to justify the transfer of the disputed domain names:

- (i) the disputed domain names are 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 disputed domain names; and,
- (iii) the disputed domain names were registered and are being used in bad faith.

### A. Identical or Confusingly Similar

The Complainant has provided evidence that it is the owner of the TIK TOK and TT4G trademarks. It has thus established its rights in these trademarks for the purposes of the Policy.

As discussed in section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), the first element functions primarily as a standing requirement. The test for confusing similarity involves a reasoned but relatively straightforward comparison between the complainant’s trademark and the disputed domain name. Where at least a dominant feature of the relevant mark is recognizable in the disputed domain name, it will normally be considered confusingly similar to that mark for purposes of UDRP standing. On this basis, the Panel accepts that the disputed domain names are confusingly similar to the Complainant’s TT4G mark, since “t” is reproduced prominently in both disputed domain names and is a dominant feature in the TT4G trademark.

Section 1.15 of the [WIPO Overview 3.0](#) further discusses that panels have taken note of the content of the website associated with a domain name to confirm confusing similarity whereby it appears *prima facie* that the respondent seeks to target a trademark through the disputed domain name. The disputed domain names both include the letters “tti” as their prominent element. The websites at the disputed domain names indicate that these three letters are an abbreviation for “TikToker Inu”. The term “tiktokker” is based on the Complainant’s TIKTOK trademark, and has become widely used to mean a person who regularly shares or appears in videos on the Complainant’s TikTok platform. The Respondent’s website also offers services to connect tiktokers with crypto projects and promotes the purchase of “TTI tokens” to support TikTok campaigns. It is therefore fair to conclude that the disputed domain names and the associated websites are dedicated to the offering of services related to the Complainant’s TikTok platform, which, in the lack of any evidence or allegation to the contrary, supports an inference that the Respondent regarded the disputed domain names as being similar to and referring to the Complainant’s TIK TOK trademark and its TikTok platform and targeted them with the disputed domain names.

The disputed domain name <ttitoken.com> also includes the dictionary word “token”. As discussed in Section 1.8 of the [WIPO Overview 3.0](#), where the relevant trademark is recognizable within the disputed domain name, the addition of other terms, whether descriptive or otherwise, would not prevent a finding of confusing similarity under the first element.

Taking all the above into account, the Panel concludes that the disputed domain names are confusingly similar to the Complainant’s TIK TOK and TT4G trademarks.

## **B. Rights or Legitimate Interests**

While the overall burden of proof in UDRP proceedings is on the complainant, UDRP 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. See section 2.1 of the [WIPO Overview 3.0](#).

The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain names, stating that the Respondent has not been authorized by the Complainant to use the TIK TOK trademark, is not known by the disputed domain names, and is not carrying out a *bona fide* use of the disputed domain names. According to the Complainant, the Respondent uses the disputed domain names for websites that display the Complainant’s logo and operate under the name “TikToker Inu” or “TTI” to offer marketing services to TikTok users and a platform to connect them with crypto projects, which according to the Complainant, exploits the goodwill of the TIK TOK trademark and confuses Internet users that the services offered by the Respondent have been authorized by the Complainant. Thus, the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain names.

The Respondent has not explained reasonably why and for what purposes it has registered the disputed domain names, beyond the mere allegation that it was paid to build a website for TTI. It has not denied the contentions of the Complainant and has not submitted any contrary evidence. With its informal submission to the Center, filed after the notification of the Complaint, the Respondent submits that it has registered the disputed domain names for one of the clients of its marketing services, and states that it has now removed the references to the Complainant from its websites and has included a disclaimer for the lack of relationship with the Complainant.

The Panel understands these statements as an admission that prior to the notification of the Complaint the Respondent’s websites indeed featured the Complainant’s TIK TOK trademark and logo and contained references to the Complainant’s TikTok platform and service, and that the Respondent accepts that the Complainant is right to object to such content of the Respondent’s websites. It can also be safely concluded from these statements that the Respondent knew of the Complainant and its TIK TOK trademark when it registered the disputed domain names and activated the associated websites, the composition and content of which may mislead visitors that they are affiliated to and authorized by the Complainant. There is no evidence in support of the Respondent’s allegation that it has registered the disputed domain names for a third party. Rather, the statement that it has made changes to the content of the associated websites may be regarded as an admission that the Respondent is at least in control of the disputed domain names.

All the above leads the Panel to the conclusion that the Respondent, being aware of the success and popularity of the Complainant’s TikTok platform and of its TIK TOK trademark, has registered and used the disputed domain names in an attempt to exploit their popularity to attract Internet users to the Respondent’s websites and to offer them its services for commercial gain. The Panel therefore does not regard this conduct of the Respondent as a legitimate activity that may give rise to rights or legitimate interests of the Respondent in the disputed domain names under the Policy.

Therefore, the Panel finds that the Respondent does not have rights or legitimate interests in the disputed domain names.

### C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy lists four illustrative alternative circumstances that shall be evidence of the registration and use of a domain name in bad faith by a respondent, namely:

“(i) circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; or

(ii) you have registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct; or

(iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your website or other online location, by creating a likelihood of confusion with the complainant’s mark as to the source, sponsorship, affiliation, or endorsement of your website or location or of a product or service on your website or location.”

The Panel notes that the Complainant launched its TikTok platform in May 2017, and that it grew in popularity to become the most downloaded application in the United States in October 2018. The disputed domain names were created in March 2022, by which time the Complainant’s service had already become one of the most popular video sharing social networking services globally. As discussed above, the disputed domain names include the letters “tti” (an abbreviation for “TikToker Inu”) as their prominent element. The Respondent has not provided a plausible explanation why it has registered the disputed domain names and does not deny that the associated websites offer services to connect tiktokers with crypto projects and promote the purchase of “TTI tokens” to support TikTok campaigns. The disputed domain names and the content of the associated websites may well confuse Internet users that are affiliated to or authorized by the Complainant.

Taking the above into account, the Panel accepts that it is more likely than not that the Respondent has registered the disputed domain names with knowledge of the Complainant and targeting the TIK TOK trademark in an attempt to attract, for commercial gain, Internet users to the Respondent’s websites, by creating a likelihood of confusion with the TIK TOK trademark as to the affiliation or endorsement of its websites and of the services offered on them.

The Panel notes the Respondent’s allegation that it has included on the website at the disputed domain names disclaimers for the lack of affiliation with the Complainant. However, the Panel is of the opinion that the presence of a disclaimer does not render the Respondent’s activities *bona fide* under the Policy. The Panel finds that the disclaimer is not capable of removing the Respondent’s probable intention to take unfair advantage of the Complainant’s TIK TOK trademark. When users have a chance to read the disclaimer they have already been attracted to the Respondent’s websites, under the impression that the disputed domain names are associated with the Complainant’s TIK TOK trademark, and would be exposed to the commercial offers on them. Moreover, the inclusion of these disclaimers after the notification of the Complaint, coupled with the lack of a response on the substance of the Complaint, appear as an admission of the Complainant’s arguments.

Therefore, the Panel finds that the disputed domain names have been registered and used in bad faith.

## 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 names <tti.social> and <ttitoken.com> be transferred to the Complainant.

*/Assen Alexiev/*

**Assen Alexiev**

Sole Panelist

Date: December 13, 2022