



Asian Domain Name Dispute Resolution Centre

hong kong

**(Hong Kong Office)**

## **ADMINISTRATIVE PANEL DECISION**

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<b>Case No.</b>	HK-2001344
<b>Complainant:</b>	Bytedance Ltd.
<b>Respondent:</b>	Bronx HF
<b>Disputed Domain Name(s):</b>	<tiktokfree.fun>

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### **1. The Parties and Contested Domain Name**

The Complainant is Bytedance Ltd., of Grand Pavilion, Hibiscus Way, 802 West Bay Road, Grand Cayman, KY1 - 1205 Cayman Islands. The authorized representative of the complainant is Paddy Tam, CSC Digital Brand Services Group AB, of Drottningatan 92-94, 111 36 Stockholm, Sweden.

The Respondent is Bronx HF, of 4849 Farnum Road, Bronx, New York State, 10019, United States of America (USA).

The domain name at issue is <tiktokfree.fun>, registered by Respondent with NameCheap, Inc., of 4600 East Washington Street Suite 33 Phoenix AZ 85034, USA.

### **2. Procedural History**

On April 17, 2020, the Complainant submitted the Complaint in English on domain name <tiktokfree.fun> to the Hong Kong Office of the Asian Domain Name Dispute Resolution Centre (the "Centre"), in accordance with the Uniform Domain Name Dispute Resolution Policy (the "Policy") adopted by the Internet Corporation for Assigned Names and Numbers (ICANN) on August 26, 1999, the Rules for Uniform Domain Name Dispute Resolution Policy Disputes (the "Rules") approved by ICANN on September 28, 2013, and the Asian Domain Name Dispute Resolution Centre Supplemental Rules in effect as of July 31, 2015. By email message dated April 21, 2020, the Center confirmed the receipt of the Complaint, together with Annexures 1 to 12. The Complainant requested a single person panel.

After receiving the Complaint, the Centre, in accordance with the Supplemental Rules, verified that the Complaint complied with the formal requirements of the Rules and the Supplemental Rules. In that regard, on April 21, 2020, the Centre requested the Registrar to confirm: (1) that the disputed domain name was registered with the Registrar, (2) whether the Respondent is the registrant or holder of the name, and (3) whether the Policy applies to the name; and to specify: (4) the language of the Registration Agreement of the

disputed domain name, (5) WhoIs information for the disputed domain name, and (6) the current status of the domain name.

On April 21, 2020, the Registrar provided its response to the Centre through which it confirmed that: (1) the name was registered with Name.com Inc., (2) the Respondent is the registrant or holder of the name, and (3) the Policy applies to the name. The Registrar also stated that (4) the registration agreement is in the English language, (5) provided name and contact information pertinent to the name as reflected in its WhoIs database, and stated that (6) the domain name is currently locked and is not allowed to transfer pending the initiated proceedings.

On April 28 and in accordance with Article 4 of the **Rules**, the Centre reviewed the Complaint for administrative compliance with the Policy and its Rules and found deficiencies. The Centre asked the Complainant to update the information of the Respondent in the Complaint Form with reference to the Whois information provided by the Registrar. According to Article 4(d) of the Rules, the Complainant was required to rectify the deficiency within 5 calendar days (i.e. on or before **May 3, 2020**). On April 28, 2020, the Complainant submitted the revised Complaint in English on domain name < tiktokfree.fun> to Centre, in accordance with the Policy, the Rules, and the ADNDRC Supplemental Rules.

On April 29, 2020, the Centre sent the Complaint to the Respondent. The Respondent was then provided with a 20-calendar day period, expiring on May 19, 2020, to file its Response both with the Centre and the Complainant. As of May 19, 2020, the Respondent had not filed any Response with the Centre.

On May 22, 2020, the Centre appointed Professor Julien Chaisse as Panelist in the administrative proceeding. 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 Centre to ensure compliance with the Rule 7. The Panel finds that the Asian Domain Name Dispute Resolution Centre has performed its obligations under Rule 2(a) of the Rules “to employ reasonably available means calculated to achieve actual notice to Respondent”. Accordingly, the Panel is able to issue its decision based on the Complaint, the Response, the e-mails exchanged, the evidence presented, the Policy, the Rules, the Supplemental Rules and any rules and principles of law that the Panel deems applicable, without the benefit of any response from the Respondent. Based on the deadline set forth in paragraph 15 of the Rules, a decision was to be issued by the Panel to the Centre on or before June 5, 2020.

### **3. Factual background**

The Complainant: Bytedance Limited (‘Bytedance’)

#### **A. The Complainant’s Bytedance and its activities**

Bytedance Ltd. (“Complainant”) is an internet technology company that enables users to discover a world of creative content platforms powered by leading technology. Bytedance owns a series of content platforms that enable people to connect with consuming and creating content through machine learning technology, including “Toutiao”, “Douyin”, and “TikTok”.

While “Toutiao” is Complainant’s core product and is one of the most popular content discovery platforms in China, “TikTok” and “Douyin” are Complainant’s platforms or applications (“app(s)”) for its video-sharing social networking services. In September 2016, Douyin was launched in China and quickly became a popular short-video sharing platform in China. While, TikTok was launched outside China in May 2017 and became the most downloaded application in the US in October 2018.

TikTok allows users to create vertical videos that typically runs for 15 seconds before looping to restart and connect clips together to create videos up to 60 seconds long. The videos incorporate music samples, filters, quick cuts, stickers, and other creative add-ons that allow users to make the most of the short length. TikTok is available in more than 150 different markets, in 75 languages, and has become the leading destination for short-form mobile video. TikTok has global offices including Los Angeles, New York, London, Paris, Berlin, Dubai, Mumbai, Singapore, Jakarta, Seoul, and Tokyo.

In Google Play, more than 500 million users have downloaded TikTok app. The app is ranked as “#1 in Entertainment” in the Apple Store and “#3 in Social” in Amazon. Complainant also has a large internet presence through its primary website <tiktok.com>. According to SimilarWeb.com, <tiktok.com> had a monthly average of 157.08 million visitors between September 2019 and February 2020. Alexa.com ranks <tiktok.com> as 409<sup>th</sup> most popular site in the world and 140<sup>th</sup> in India.

#### B. The Complainant’s Bytedance and its Marks

The Complainant is the owner of trademark registrations across various jurisdictions. The complainant provided the Panel with relevant documents from the United States Patent and Trademark Office (USPTO), the Intellectual Property Department of Hong Kong (HKIPD), Japan Patent Office (JPO) and IP Australia (IPAU) for these registrations, which demonstrate that the Complainant has spent a considerable amount of time and money protecting its intellectual property rights. These registrations are referred to hereafter as the “Complainant’s trademark.”

The trademark registrations relevant to this instant matter are:

<b>TRADEMARK</b>	<b>JURISDICTION/ TM OFFICE</b>	<b>REGISTRATION NUMBER</b>	<b>FILING DATE</b>	<b>REGISTRATION DATE</b>	<b>IC CLASS</b>
<i>TIK TOK</i>	US / USPTO	5653614	Apr. 23, 2018	Jan. 15, 2019	9, 38, 41, 42
<i>TIK TOK</i>	US / USPTO	5974902	Aug. 31, 2018	Feb. 4, 2020	9, 38, 41, 42
<i>TIK TOK</i>	HK / HKIPD	304569373	Jun. 20, 2018	Jun. 20, 2018	9, 38, 41, 42
<i>TIK TOK</i>	JP / JPO	6064328	Nov. 29, 2017	Jul. 20, 2018	25, 35, 41, 42, 45
<i>TIK TOK</i>	AU / IPAU	1949117	Aug 17, 2018	Aug 17, 2018	9, 38, 41

The Complainant has been using “TIK TOK” as its trade name since its incorporation and has been using the series of trademarks incorporating “TIK TOK” continuously and extensively in various countries. The Complainant’s TIK TOK brand is well recognized and respected worldwide and in their industry. Complainant has made significant

investment to advertise and promote the Complainant's trademark worldwide in media and the internet over the years.

#### B. The Respondent

No information of significance is available about the Respondent except for the contact details provided for the purpose of registration of the disputed domain names. According to the Complainant, the Respondent sells similar products to the Complainant using the disputed domain names. The disputed domain name was registered on 17 November 2018.

### 4. Parties' Contentions

#### A. Complainant

The Complainant's contentions may be summarized as follows:

##### i. Identical or confusingly similar

The Complainant submits that the Disputed Domain Name is identical or confusingly similar to marks in which the Complainant has rights on the basis of its TIK TOK's marks registrations. The Disputed Domain Name and the Complainant's registered TIK TOK's marks are identical.

As the proprietor of the "TIK TOK" trademarks, the Complainant has devoted great efforts and incurred substantial expenses in obtaining and policing trademark registrations for "TIK TOK" in various jurisdictions worldwide, including but not limited to Hong Kong, Australia, USA, and Japan.

The Complainant accordingly submits that it has proved that the Disputed Domain Name is identical and/or confusingly similar to its registered trademarks in which the Complainant has rights or interests for the purposes of paragraph 4(a)(i) of the Policy.

##### ii. No rights or legitimate interests

The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name pursuant to paragraphs 4(a) (ii) and particular 4(c) of the Policy.

The rights in the "TIK TOK" of trademarks vest in the Complainant and its group of companies, and no others. The Respondent is not in any way related to the Complainant, nor was the Respondent authorized by the Complainant to use the trademarks "TIK TOK." Moreover, the Respondent is not commonly known by "TIK TOK."

The Complainant accordingly submits that it has proved that the Respondent has no right or legitimate interest in respect of any of the Disputed Domain Name for the purposes of Article 4(a)(ii) of the Policy.

##### iii. Registered and used in bad faith

The Complainant contends that the Respondent actual use of the Disputed Domain Name demonstrates that it is registered and used in bad faith, with a view to free-riding the

substantial reputation and goodwill enjoyed by the Complainant in the trademarks “TIK TOK.”

The Complainant accordingly submits that it has proved that the Respondent has registered and used the Disputed Domain Name in bad faith for the purposes of Article 4(a)(iii) of the Policy.

#### B. Respondent

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

### 5. Findings

The ICANN Uniform Domain Name Dispute Resolution Policy provides, at Paragraph 4(a), that each of three findings must be made for a Complainant to prevail:

- i. Respondent’s domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- ii. Respondent has no rights or legitimate interests in respect of the domain name; and
- iii. Respondent’s domain name has been registered and is being used in bad faith.

#### A) Identical / Confusingly Similar

The Complainant adequately discharged its burden to prove that it is the owner of TIK TOK trademark.

Firstly, it is standard practice when comparing a Disputed Domain Name to Complainant’s trademark, to not take the extension into account.<sup>1</sup> The Disputed Domain Name <tiktokfree.fun> incorporates the Complainant’s “TIK TOK” mark in its entirety. From a simple comparison of the name and the mark, no doubt exists that the disputed domain name is, for all practical purposes, identical to the Complainant’s mark TIKTOK. The only difference between the name is the appending of the gTLD (generic top level domain) “.club” to the mark, with that difference being totally irrelevant in assessing confusing similarity or identity under paragraph 4(a) of the Policy and thus ignored. It is well-established that in making an enquiry as to whether a trade mark is identical or confusingly similar to a domain name, the domain extension, in this case <.fun>, should be disregarded.<sup>2</sup>

Secondly, in creating the Disputed Domain Name, Respondent has added the generic, descriptive term “free” to Complainant’s TIK TOK trademark, thereby making the Disputed Domain Name confusingly similar to Complainant’s trademark. The fact that such terms are closely linked and associated with Complainant’s brand and trademark only serves to underscore and increase the confusing similarity between the Disputed Domain Name and the Complainant’s trademark.

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<sup>1</sup> See *WIPO Jurisprudential Overview 3.0 at 1.11.1* (“The applicable Top Level Domain (“TLD”) in a domain name (e.g., “.com”, “.club”, “.nyc”) is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test.”).

<sup>2</sup> See *Rohde & Schwarz GmbH & Co. HG v. Pertshire Marketing, Ltd*, WIPO Case No. D2006-0762 and ‘Rimowa GmbH v. Ms Pisa Yu’, ADNDRC, Decision, [HK-1500728](#), May 25, 2015.

Thirdly, the Respondent's omission of space between "tik" and "tok" does nothing to distinguish the Disputed Domain Name from Complainant's TIK TOK trademarks. In other words, the elimination of space does not diminish the confusing similarity between the Disputed Domain Name and Complainant's trademark and should be disregarded for purposes of making this determination.<sup>3</sup>

Fourthly, the Respondent's use of the Disputed Domain Name contributes to the confusion. Respondent is using the Disputed Domain Name to resolve to a website called "TikTok Video Download" purporting to allow users to download TikTok (Musically) videos without watermark and for free. Respondent also refers to the TIK TOK trademark on the Disputed Domain Name's website and features Complainant's music note logo as the website's favicon (tab icon). Such use suggests that Respondent intended the Disputed Domain Name to be confusingly similar to Complainant's trademark as a means of furthering consumer confusion. Although the content is usually disregarded under the first element of the UDRP, *WIPO Jurisprudential Overview 3.0 at 1.15* allows "the content of the website associated with a domain name to confirm confusing similarity where it appears prima facie that the respondent seeks to target a trademark through the disputed domain name."<sup>4</sup> As a result, Respondent's use of the Disputed Domain Name to resolve to a website that displays Complainant's logo and TIK TOK trademark, and allegedly enables the unauthorized download of TikTok (Musically) videos is further evidence that the Disputed Domain Name is confusingly similar to Complainant's trademark.

The Panel finds that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights.

## **B) Rights and Legitimate Interests**

The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name pursuant to paragraphs 4(a) (ii) and particular 4(c) of the Policy.

Firstly, Paragraph 4(c) of the Policy sets out ways in which a Respondent may establish they have rights and legitimate interests. These are: "(i) before any notice to you of the dispute, your use of, or demonstrable 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; or (ii) you (as an individual, business, or other organization) have been commonly known by the domain name, even if you have acquired no trademark or service mark rights; or (iii) you are making a legitimate non-commercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue." However, the Respondent has not responded to the Complaint to assert any rights or legitimate interests.

Secondly, the granting of registrations by the USPTO, HKIPD, JPO and IPAU to Complainant for the TIK TOK trademark is prima facie evidence of the validity of the term "tik tok" as a trademark, of Complainant's ownership of this trademark, and of

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<sup>3</sup> See *Royal Unibrew A/S v. Daniel Wallace, Royal Unibrew A/S*, D2017-2519 (WIPO Mar. 6, 2018) (finding that "elimination of spaces between the trademark's words is of no significance in determining a confusing similarity").

<sup>4</sup> WIPO Jurisprudential Overview 3.0 (2017), <https://www.wipo.int/amc/en/domains/search/overview3.0/>. See also Justin Chay and Brian Beckham, 'WIPO's Revised Overview 3.0 Assesses Evolutions in UDRP Jurisprudence' (2017) 269 *Managing Intell Prop* 11.

Complainant's exclusive right to use the TIK TOK trademark Respondent is not sponsored by or affiliated with Complainant in any way. Furthermore, Complainant has not given Respondent permission, authorization or license to use Complainant's trademark in any manner, including in domain names. In the absence of any license or permission from the Complainant to use its trademark, no actual or contemplated bona fide or legitimate use of the Disputed Domain Name could reasonably be claimed.

Thirdly, the Respondent is not commonly known by the Disputed Domain Name, which evinces a lack of rights or legitimate interests.<sup>5</sup> In the instant case, the pertinent Whois information identifies the Registrant as "Bronx HF" which does not resemble the Disputed Domain Name in any manner. Thus, where no evidence, including the Whois record for the Disputed Domain Name, suggests that Respondent is commonly known by the Disputed Domain Name, then Respondent cannot be regarded as having acquired rights to or legitimate interests in the Disputed Domain Name within the meaning of ¶ 4(c)(ii).<sup>6</sup> In addition, at the time of filing the complaint, Respondent was using a privacy WHOIS service, which past panels have also found to equate to a lack of legitimate interest.<sup>7</sup>

Fourthly, the Respondent is not making a bona fide offering of goods or services or legitimate, noncommercial fair use of the Disputed Domain Name. Respondent's inclusion of the Complainant's TIK TOK trademark on the Disputed Domain Name's website and Complainant's music note logo as the website's favicon is a direct effort to take advantage of the fame and goodwill that Complainant has built in its brand and logo. Respondent is not only using the confusingly similar Disputed Domain Name but is also confusing users into believing that some sort of affiliation exists between it and Complainant by naming the website "TikTok Video Download" and displaying Complainant's logo and trademark. Respondent also includes "© Tiktokfree.fun 2020" at the bottom page of the Disputed Domain Name's website. All these create the appearance that the Disputed Domain Name and its website are somehow affiliated with Complainant, when they are not. Respondent undoubtedly exploits the reputation of Complainant's logo and TIK TOK trademark to attract traffic to its website, and to ultimately pass itself off as Complainant.<sup>8</sup>

Fourthly, on the website available at the Disputed Domain Name, Respondent displays a message instructing user to download TikTok (Musically) videos for free and without watermark contrary to TikTok's Terms of Service. Respondent's use of the confusingly similar Disputed Domain Name to deceive internet users and foster conduct against

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<sup>5</sup> See *Sportswear Company S.P.A. v. Tang Hong*, D2014-1875 (WIPO Dec. 10, 2014). See also *World Natural Bodybuilding Federation, Inc. v. Daniel Jones TheDotCafe*, D2008-0642 (WIPO Jun. 6, 2008) (finding that a respondent, or his/her organization or business, must have been commonly known by the at-issue domain at the time of registration in order to have a legitimate interest in the domain).

<sup>6</sup> See *Moncler S.p.A. v. Bestinfo*, D2004-1049 (WIPO, Feb. 8, 2005) (in which the panel noted "that the Respondent's name is "Bestinfo" and that it can therefore not be "commonly known by the Domain Name" [moncler.com]").

<sup>7</sup> See *Jackson National Life Insurance Company v. Private WhoIs www.jacksonnationallife.com N4892*, D2011-1855 (WIPO Dec. 23, 2011) ("The Panel concludes that the Respondent possesses no entitlement to use the name or the words in the Complainant's marks and infers [...] from the "Private Whois" registration that it is not known by such name. There is no evidence of the Respondent ever being commonly known by the name or words now included in the disputed domain name.").

<sup>8</sup> As such, "Respondent, in [also] using [a] confusingly similar domain name to mislead Complainant's customers, is not making a bona fide offering of goods and services pursuant to Policy ¶4(c)(i) or a legitimate noncommercial or fair use of the domain name pursuant to Policy ¶4(c)(iii)." See *Houghton Mifflin Co. v. Weatherman, Inc.*, D2001-0211 (WIPO Apr. 25, 2001) (no bona fide offering where website's use of Complainant's logo...suggested that website was the official Curious George website).

TikTok's Terms of Service, is neither a bona fide offering of goods or services under Policy ¶ 4(c)(i) , nor a legitimate noncommercial or fair use pursuant to Policy ¶ 4(c)(iii).<sup>9</sup>

Finally, the Respondent also registered the Disputed Domain Name on November 17, 2018, which is after Complainant filed for registration of its TIK TOK trademark with the USPTO, HKIPD, JPO and IPAU, and after Complainant's first use in commerce of its trademark in 2017. The Disputed Domain Name's registration date is also after the Complainant obtained its <tiktok.com> domain name in 2018.

The Complainant has made out a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name and thereby the burden of production shifts to the Respondents to produce evidence demonstrating rights or legitimate interests in respect of the Disputed Domain Name.<sup>10</sup> The second element of paragraph 4(a) of the Policy is therefore satisfied.

### **C) Bad Faith**

To establish bad faith for the purposes of the Policy, the Complainant must show that the disputed domain name was registered in bad faith and has been used in bad faith. That case may be made out if there are facts coming within the provisions of paragraph 4(b) of the Policy. That paragraph sets out a series of circumstances that are to be taken as evidence of the registration and use of a domain name in bad faith, namely: “... (i) *circumstances indicating that Respondent has registered or has acquired the disputed domain name primarily for the purpose of selling, renting, or otherwise transferring the disputed domain name registration to Complainant who is the owner of the trademark or service mark or to a competitor of Complainant, for valuable consideration in excess of Respondent's documented out-of-pocket costs directly related to the disputed domain name; or (ii) Respondent has registered the disputed domain name in order to prevent Complainant from reflecting the mark in a corresponding domain name, provided that Respondent has engaged in a pattern of such conduct; or (iii) Respondent has registered the disputed domain name primarily for the purpose of disrupting the business of a competitor; or (iv) by using the disputed domain name, Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other on-line location, by creating a likelihood of confusion with Complainant's mark as to the source, sponsorship, affiliation, or endorsement of its website or location or of a product or service on its website or location.*” However, those criteria are not exclusive and Complainants in UDRP proceedings may also rely on conduct that is bad faith within the generally accepted meaning of that expression and frequently do so.

Firstly, the Complainant and its TIK TOK trademark are known internationally, with trademark registrations across numerous countries. The Complainant has marketed and sold its goods and services using this trademark since 2017, which is well before Respondent's registration of the Disputed Domain Name on November 17, 2018.

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<sup>9</sup> See *Google Inc. v. Onur Koycegiz, FA1741705* (NAF Aug. 25, 2017) (finding that respondent's use of the <10youtube.com> domain name in association with a website that enabled Internet users to download and save content from Google's YouTube service in violation of Google's YouTube Terms of Service did not constitute either a bona fide offering of goods or services under Policy ¶ 4(c)(i) or a legitimate noncommercial or fair use under Policy ¶ 4(c)(iii)).

<sup>10</sup> See for example *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. D2003-0455.



Secondly, by registering a domain name that incorporates Complainant's TIK TOK trademark without the space and with the addition of the related terms "download" and "videos," Respondent has created a domain name that is confusingly similar to Complainant's trademark, as well as its <tiktok.com> domain. As such, Respondent has demonstrated a knowledge of and familiarity with Complainant's brand and business. Further, the Disputed Domain Name resolves to a webpage that features Complainant's TIK TOK trademark, Complainant's music note logo as the favicon, and a website tool that purportedly downloads TikTok (Musically) videos without watermark and free of charge. In light of these facts, it is "not possible to conceive of a plausible situation in which the Respondent would have been unaware of" the Complainant's brands at the time the Disputed Domain Name was registered.<sup>11</sup> Stated differently, TIK TOK is so closely linked and associated with Complainant that Respondent's use of this mark, or any minor variation of it, strongly implies bad faith – where a domain name is "so obviously connected with such a well-known name and products,...its very use by someone with no connection with the products suggests opportunistic bad faith."<sup>12</sup> Further, where the Disputed Domain Name includes Complainant's TIK TOK trademark (minus the space), and the related terms "download" and "videos," "it defies common sense to believe that Respondent coincidentally selected the precise domain without any knowledge of Complainant and its trademark."<sup>13</sup>

Thirdly, ICANN policy dictates that bad faith can be established by evidence that demonstrates that "by using the domain name, [Respondent has] intentionally attempted to attract, for commercial gain, Internet users to [Respondent's] web site..., by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your web site or location or of a product or service on [Respondent's] web site or location."<sup>14</sup> Here, Respondent creates a likelihood of confusion with Complainant and its trademark by resolving to a website which displays Complainant's logo and TIK TOK trademark in a brand-like manner, and purports to enable internet users to download TikTok (Musically) videos for free and without watermark. As such, Respondent is attempting to cause consumer confusion in a nefarious attempt to profit from such confusion. The impression given by the Disputed Domain Name and its website would cause consumers to believe the Respondent is somehow associated with Complainant when, in fact, it is not. Respondent's actions create a likelihood of confusion as to the source, sponsorship, affiliation, or endorsement of the Disputed Domain Name, and the Respondent is thus using the fame of the Complainant's logo and trademark to improperly increase traffic to the website listed at the Disputed Domain Name for Respondent's own commercial gain. It is well established that such conduct constitutes bad faith.<sup>15</sup> In fact, the Respondent's use of the Disputed Domain Name constitutes a disruption of Complainant's business and qualifies as bad faith registration and use under Policy ¶4(b)(iii) because Respondent's domain name is confusingly similar to Complainant's trademark and the website allegedly enables visitors to download TikTok (Musically) videos without watermark and at no cost, in violation of TikTok's Terms of

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<sup>11</sup> See *Telstra Corp. Ltd. v. Nuclear Marshmallows*, D2000-0003 (WIPO Feb. 18, 2000).

<sup>12</sup> See *Parfums Christian Dior v. Javier Garcia Quintas*, D2000-0226 (WIPO May 17, 2000).

<sup>13</sup> See *Asian World of Martial Arts Inc. v. Texas International Property Associates*, D2007-1415 (WIPO Dec. 10, 2007).

<sup>14</sup> See Policy ¶4(b)(iv).

<sup>15</sup> See *World Wrestling Fed'n Entm't, Inc. v. Ringside Collectibles*, D2000-1306 (WIPO Jan. 24, 2001) (concluding that the respondent registered and used the <wwfauction.com> domain name in bad faith because the name resolved to a commercial website that the complainant's customers were likely to confuse with the source of the complainant's products, especially because of the respondent's prominent use of the complainant's logo on the site).

Service. Respondent, by its intention to aid third parties in violating TikTok’s Terms of Service undeniably disrupts Complainant’s business and further shows Respondent’s bad faith under the Policy.<sup>16</sup>

Fourthly, the Disputed Domain Name can only be taken as intending to cause confusion among internet users as to the source of the Disputed Domain Name, and thus, the Disputed Domain Name must be considered as having been registered and used in bad faith pursuant to Policy ¶4(b)(iv), with no good faith use possible. More specifically, where the Disputed Domain Name consists of Complainant’s TIK TOK trademark (without the space) as well as the related term “free,” there is no plausible good-faith reason or logic for Respondent to have registered the Disputed Domain Name.<sup>17</sup> Moreover, the Respondent, at the time of initial filing of the Complaint, had employed a privacy service to hide its identity, which past Panels have held serves as further evidence of bad faith registration and use.<sup>18</sup>

The Panel finds that the Respondent’s actions, with respect to the disputed domain name, constitute bad faith registration and use. Consequently, the Panel concludes that the Respondent violated paragraph 4(a)(iii) of the Policy and specifically paragraph 4(b)(i) thereof.

## 6. Decision

Having established all three elements required under the Policy, the Panel concludes that relief should be granted. Accordingly, it is ordered that the disputed domain name <tiktokfree.fun>, be TRANSFERRED to the Complainant.



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Professor Julien Chaisse  
Panelist

Dated: May 28, 2020

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<sup>16</sup> See *Google LLC v. david stonehill*, FA1808821 (NAF Nov. 1, 2018) (finding bad faith use and registration where the respondent used the <dcyoutube.com> domain name in association with a website that enabled download of content from Google’s YouTube website in violation of Google’s YouTube Terms of Service).

<sup>17</sup> “The only feasible explanation for Respondent’s registration of the disputed domain name is that Respondent intends to cause confusion, mistake and deception by means of the disputed domain name. Accordingly, any use of the disputed domain name for an actual website could only be in bad faith.”

<sup>18</sup> See *WIPO Jurisprudential Overview 3.0 at 3.6* (“Panels have also viewed a respondent’s use of a privacy or proxy service which is known to block or intentionally delay disclosure of the identity of the actual underlying registrant as an indication of bad faith.”). See also *Dr. Ing. H.C. F. Porsche AG v. Domains by Proxy, Inc.*, D2003-0230 (WIPO May 16, 2003).