ADNDRC | Asian Domain Name Dispute Resolution Centre
hong kong

(Hong Kong Office)

ADMINISTRATIVE PANEL DECISION

Case No.:	**HK-2001409**
Complainant:	**Television Broadcasts Limited**
Respondent:	**Domain Administrator**
Disputed Domain Name:	**<METVB.CC>**

1. The Parties and Contested Domain Name

The Complainant is Television Broadcasts Limited ("**Complainant**"), of Legal and Regulatory Department, 10/F, Main Block, TVB City, 77 Chun Choi Street, Tseung Kwan O Industrial Estate, Kowloon, Hong Kong.

The Respondent is Domain Administrator ("**Respondent**"), of 1928 E. Highland Ave. Ste F104 PMB#255, Phoenix, United States of America ("United States").

The domain name at issue is <METVB.CC> ("**disputed domain name**"), registered by Respondent with NameSilo, LLC ("**Registrar**"), of 1300 E. Missouri Avenue, Suite A-110, Phoenix, AZ 85014, United States.

2. Procedural History

The Complaint was filed with the Hong Kong office of the Asian Domain Name Dispute Resolution Center (the "**Center**") on December 1, 2020. On December 1, 2020, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 1, 2020, the Registrar transmitted by email to the Centre its verification response disclosing registrant information for the disputed domain name which differed from the information of the Respondent in the Complaint. The Centre sent an email communication to the Complainant on December 8, 2020, providing the registrant information disclosed and by the Registrar, and inviting the Complainant to submit an amended Complaint. On December 10, 2020, the Complainant sent an email to the Centre confirming the Complainant and annexes submitted on December 1, 2020 are the finalized version.

The Center has verified that the Complaint satisfies the formal requirements of the ICANN Uniform Domain Name Dispute Resolution Policy (the "**Policy**"), the Rules of Procedure under the Policy (the "**Rules**") and the Center's Supplemental Rules (the "**Supplemental Rules**").

In accordance with the Rules, the Center formally notified the Respondent of the Complaint and the proceeding commenced on December 10, 2020. In accordance with the Rules, the due date for the Response was December 30, 2020. No Response was received by the Center.

The Center appointed Douglas Clark ("**Panel**") as the Panelist in this matter on January 5, 2021. The Panel finds that it was properly constituted and has acted impartially in reaching its conclusion.

3. Factual background

The Complainant, Television broadcasts Limited is a television station in Hong Kong established in 1967. It has over 3,600 staff and artistes worldwide. The principal activities of the Complainant are television broadcasting, programme production and other broadcasting related activities such as programme and Video-On-Demand licensing, digital media business, etc. The Complainant has various subsidiaries and one of them is TVB (USA) Inc. which provides satellite and cable TV services in the United States since 1976.

The Complainant owns a range of trademark registrations which incorporate the term "TVB" worldwide, including Hong Kong trademark No. 199608823AA registered on June 8, 1992 for "TVB" in classes 35, 38 and 41; Hong Kong trademark No. 303957139 registered on November 9, 2016 for "TVB" in classes 9, 16, 35, 38, 41, 42 and 45; and United States trademark No. 5440815 registered on April 10, 2018 for "TVB" in classes 9, 12, 16, 35, 38, 41, 42 and 45.

The Complainant has an official website <http://www.tvb.com> which was launched in 1999. The Complainant's TV programmes and activities are available in the United States at <http://www.tvbusa.com>. The Complainant and its subsidiaries registered and owned over 170 domain names bearing the mark "TVB", such as <watchtvb.com>, <tvbvideo.net> and <tvb.me>.

The Respondent is the registrant of the disputed domain name <METVB.CC>.

The disputed domain name was registered on December 6, 2017 and does not resolve to an active website at the date of this decision. According to the evidence provided by the Complainant, the disputed domain name was resolved to a website that provides different television dramas, movies, variety shows and animations.

4. Parties' Contentions

A. Complainant

The Complainant's contentions may be summarized as follows:

i. The Complainant contends that the disputed domain name is confusingly similar to the Complainant's TVB mark. The disputed domain name clearly contains the Complainant's registered TVB mark which has been used by the Complainant continuously for over 50 years. The disputed domain name is confusingly similar with other Complainant's trademarks deriving from "TVB" such as "TVBVideo", "TVB8" and "TVBC". The resolved website was deliberately created by the Respondent with the intention to offer public viewing of

Complainant's programmes without the Complainant's authorization. The Respondent's registration of the disputed domain name is a fraudulent act which takes advantage of the Complainant's goodwill and reputation, counterfeiting Complainant's identity and mislead the public to believe that Complainant and/or its official website.

ii. The Complainant asserts that the Respondent has no rights or legitimate interests in the registration of the disputed domain name. The Respondent is not in any way connected, associated or affiliated with the Complainant and the Complainant has not authorized, endorsed or otherwise permitted Respondent to register the disputed domain name or use the Complainant's trademark or any variation. There is no evidence that the Respondent has been commonly referred to as the disputed domain name, and there is no reason why Respondent might reasonably be said to have any rights or legitimate interests in registering or using the disputed domain name. By offering users to view the Complainant's programmes without authorization, the Respondent has infringed the copyright and other intellectual property rights of the Complainant. The Respondent is not making any legitimate or fair use of the disputed domain name.

iii. The Complainant contends that the Respondent has registered and used the disputed domain name in bad faith. The disputed domain name was registered in 2017 while the Complainant has been widely publicizing "TVB" as its brand name since 1967. The Respondent should have intentionally chosen the disputed domain name for its website with full knowledge of the Complainant's business and trademarks. Therefore, it is inconceivable that at the time of registering the disputed domain name the Respondent was not aware of Complainant's business and its trademarks.

By using the disputed domain name to distribute and offers public viewing of the Complainant's programme contents online, the Respondent is using the disputed domain name in direct competition with the Complainant's business. The Respondent use of the disputed domain name has seriously prejudiced the Complainant's commercial interests. By making use of the Complainant's works, and by creating a likelihood of confusion with the Complainant's trademarks, the Respondent has misled the public to believe that the source, sponsorship, affiliation, or endorsement of the Respondent's website or location or of a product or service on the Respondent's website or location are associated with the Complainant, or with its authorization.

B. Respondent

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

5. Findings

The Policy provides, at Paragraph 4(a), that each of three findings must be made in order 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 Panel is satisfied that the Complainant has adduced evidence to demonstrate its established rights in the TVB mark.

The Panel finds the disputed domain name is confusingly similar to the Complainant's mark because the disputed domain name incorporates the Complainant's TVB trademark in full. The generic Top-Level Domain ".cc" should be disregarded under the first element confusing similarity test. The additional word "ME" does not preclude a finding of confusing similarity between the TVB trademark and the disputed domain name.

The first element of paragraph 4(a) of the Policy is therefore satisfied.

B) Rights and Legitimate Interests

Paragraph 4(c) of the Policy provides a list of non-exhaustive circumstances which respondent can use to demonstrate its rights or legitimate interests in a disputed domain name: -

"(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 noncommercial 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."

In this case, the Complainant has made out a *prima facie* case that the Respondent has no rights or legitimate interest in the disputed domain name, and the Respondent has not responded to the Complaint to assert any rights or legitimate interests.

The Respondent has no business or any kind of relationships (i.e., licensor, distributor) with the Complainant, it is not commonly known by the disputed domain name and it is using the disputed domain name to provide free access to the Complainant's programmes which mislead the consumers and tarnished the Complainant's TVB trademark. Considering the absence of a response by the Respondent to the Complainant's contentions and the fact that the Respondent was granted neither a license nor an authorization to make any use of the Complainant's trademark, the Panel finds that the Complainant has established that the Respondent has no rights or legitimate interests in the disputed domain name.

The second element of paragraph 4(a) of the Policy is therefore satisfied.

C) Bad Faith

Based on the evidence, the Panel finds that the disputed domain name was registered and is being used in bad faith.

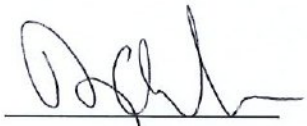
The Complainant's TVB trademark had been registered way before the registration of the disputed domain name. The Panel is satisfied that the Respondent must have known the Complainant's well-known TVB trademark when it registered the disputed domain name. It appears to the Panel that the Respondent has registered the disputed domain name in order to create an association with the Complainant as a means of attracting users to the resolved website.

The disputed domain name resolved to a website which provide free access to the complainant's programmes. The disputed domain name is clearly being used to attract, for commercial gain, Internet users to the website, by creating a likelihood of confusion with the Complainant's TVB trademark as to the source sponsorship, affiliation, or endorsement of the Respondent's website.

Under all the circumstances of this case as described above, the Panel is satisfied that the Respondent registered the disputed domain name with the Complainant's mark in mind and has used the disputed domain name in bad faith. For the above reasons, the third part of the paragraph 4(a) of the Policy is therefore satisfied.

6. 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 <METVB.CC> be transferred to the Complainant Television Broadcasts Limited.



Douglas Clark
Panelist

Dated: 1 February 2021