



Asian Domain Name Dispute Resolution Centre

hong kong

(Hong Kong Office)

ADMINISTRATIVE PANEL DECISION

Case No.	HK-2101463
Complainant:	Tencent Holdings Limited
Respondent:	Natachatchai Sawang
Disputed Domain Name(s):	< wechat-wallet.com > and < wechatthailand.com >

1. The Parties and Contested Domain Name

The Complainant is Tencent Holdings Limited, of P.O. Box 2681 GT, Century Yard, Cricket Square, Hutchins Drive, George Town, Grand Cayman, Cayman Islands. The authorized representative of the complainant is Paddy Tam, CSC Digital Brand Services Group AB, Drottningatan 92-94, 111 36 Stockholm, Sweden.

The Respondent is Natachatchai Sawang, of 11/1 Srilanna Soi 9 Paton, Muang, Chiang Mai 50300 Thailand.

The domain names at issue are < wechat-wallet.com > and < wechatthailand.com>, registered by Respondent with PDR Ltd. d/b/a PublicDomainRegistry.com, of Unit No 501, 5th floor and Unit IT Building No 3, NESCO IT Park, Western Express Highway, Goregaon (East), Mumbai Maharashtra 400063, India.

2. Procedural History

On May 11, 2021, the Complainant submitted the Complaint on domain name < wechat-wallet.com > 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 May 12, 2021, the Center confirmed the receipt of the Complaint. In that regard, on May 12, 2021, 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 May 13, 2021, the Registrar provided its response to the Centre through which it indicated the information of the Respondent in the Complaint is different from the WHOIS information provided by the Registrar. In accordance with Article 4 of the Rules, the Centre requested the Complainant to update the information of the Respondent in the Complaint Form with reference to the Whois information provided by the Registrar. Moreover, the Centre reminded that according to Article 4(d) of the Rules, the Complainant is required to rectify the deficiency within 5 calendar days. On May 18, 2021, the same Complainant requested to add the domain name < wechatthailand.com > to the same Complaint HK-2101463. In this connection, on May 18, 2021, the Complainant submitted the revised Complaint on domain names < wechat-wallet.com > and < wechatthailand.com> to the Centre, in accordance with the Policy, the Rules Supplemental Rules. In accordance with Article 4 of the Rules and ADNDRC Supplemental Rules and the Rules for the Uniform Domain Name Dispute Resolution Policy, the Centre reviewed the Complaint for administrative compliance with the Policy and its Rules and found deficiency in the descriptions under Item 8 of the Complaint Form and asked the Complainant to revise the Complaint Form accordingly.

On May 24, 2021, the Complainant submitted the revised Complaint on domain names < wechat-wallet.com > and < wechatthailand.com> to the Centre, in accordance with the Policy, the Rules Supplemental Rules. By email message dated May 24, 2021, the Center confirmed the receipt of the Complaint, together with Annexures 1 to 10. The Centre, in accordance with the Supplemental Rules, verified that the Complaint complied with the formal requirements of the Rules and the Supplemental Rules. The Complainant requested a single person panel. On May 24, 2021, the Centre sent the Complaint to the Respondent. In accordance with paragraph 5(a) of the Rules, the due date for the Response was June 13, 2021. The Respondent did not submit any response. Accordingly, the Centre notified the parties of the Respondent's default on June 16, 2021.

Pursuant to the Rules and Supplemental Rules, the Centre, by email dated June 17, 2021, contacted the undersigned, Professor Julien Chaisse, requesting his service as a Sole Panelist for this dispute. Subsequently, on the same day, Prof. Chaisse responded and affirmed his ability to act completely independently and impartially in this matter. Subsequently, the Centre, through an email dated June 17, 2021, notified the Parties of the appointment of Professor Chaisse as the Sole Panelist.

The Panel finds that the Administrative Panel was properly constituted and appointed in accordance with the Rules and the Supplemental Rules. Based on the deadline set forth in paragraph 15 of the Rules, a decision was to be issued by the Panel to the Center on or before July 1, 2021.

3. Factual background

The Complainant: Tencent Holdings Limited

A. The Complainant and its activities



Founded in November 1998, Tencent Holdings Limited (“Tencent”) is a leading provider of Internet value added services in China. Since its establishment, Tencent has maintained steady growth under its user-oriented operating strategies. On June 16, 2004, Tencent Holdings Limited (SEHK 700) went public on the main board of the Hong Kong Stock Exchange.

Tencent provides social platforms and digital content services. Tencent’s leading Internet platforms in China – QQ (QQ Instant Messenger), Weixin/WeChat, QQ.com, QQ Games, Qzone, and Tenpay – have brought together China’s largest Internet community, to meet the various needs of Internet users including communication, information, entertainment, financial services, and others. An integrated feature in Weixin/WeChat, Weixin/WeChat Pay is a digital wallet payment solution for its users, enabling quick payment transactions on their mobile phones. Weixin/WeChat Pay functions based on swift payment using connected bank cards, providing safe and efficient payment services for users. The Complainant has launched WeChat and WeChat Pay in numerous countries, and its < wechat.com > website provides information in 20 languages, including Thai.

B. The Complainant’s Marks

The Complainant is the owner of trademark registrations across various jurisdictions as evidenced by the relevant documents provided in annexes to the complaint. These include trademark registrations from the Department of Intellectual Property, Thailand (DIPT), the United States Patent & Trademark Office (USPTO), European Union Intellectual Property Office (EUIPO) and Hong Kong Intellectual Property Department (HKIPD) for these registrations, which demonstrate that the Complainant has spent a considerable amount of time and money protecting its intellectual property rights.

The trademark registrations relevant to this instant matter are:

TRADEMARK	JURISDICTION/ TM OFFICE	REGISTRATION NUMBER	IC CLASSES	FILING REGISTRATION DATE
WECHAT	TH / DIPT	825934	38	2013-12-27
WECHAT	US / USPTO	4442135	9, 38	2013-12-21
WECHAT	EM / EUIPO	010344621	9, 38	2012-03-21
WECHAT	HK / HKIPD	302060252	9, 38	2011-10-17
	TH / DIPT	890123	35	2016-02-02
	US / USPTO	4815553	16, 35, 41, 42, 45	2015-09-22

These registrations are referred to hereafter as the “Complainant’s Trademark”.

The Respondent

The Respondent did not file a Response. As such, the Respondent did not provide any information as to the legal status and place of incorporation of the Respondent. There is no indication as for the nature and size of the business operated by the Respondent.

4. Parties' Contentions

A. Complainant

The Complainant's contentions may be summarized as follows:

i. Identical or Confusingly Similar

The Complainant has registered numerous trademarks comprising the Wechat trademark to protect its interests around the world.

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. 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 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. There is no evidence indicating that the Respondent enjoys any prior legal rights or legitimate interests in respect of the domain name in dispute.

iii. Registered and Used in Bad Faith

The Complainant contends that the Respondent registered and is now using the Disputed Domain Name in bad faith under paragraph 4(a)(iii) of the Policy.

First, the Disputed Domain Name does not reflect or correspond to the Respondent's own name. Second, Respondent's use of the Disputed Domain Names constitutes a disruption of Complainant's business and qualifies as bad faith registration and use under Policy ¶4(b)(iii) because Respondent's domain names are confusingly similar to Complainant's Trademarks and the website at the Disputed Domain Names features services of Complainant's competitor. Therefore, it is inconceivable that the Respondent registered the Disputed Domain Name for any reason other than in bad faith.

B. Respondent

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

5. Findings

In order to succeed on its Complaint, Complainant must demonstrate that the three elements set forth in paragraph 4(a) of the Policy have been satisfied. These elements are that: (i) the Domain Name registered by Respondent is identical or confusingly similar to a trademark or service mark in which Complainant has rights; (ii) Respondent has no rights to or legitimate interests in respect of the Domain Name; and (iii) Respondent has registered and is using the Domain Name in bad faith.

i) Identical / Confusingly Similar

The Panel finds that the disputed domain name is confusingly similar to the Complainant's Trademark.

The disputed domain names are < wechat-wallet.com > and < wechatthailand.com >. Complainant is the owner of the trademark Wechat. The disputed domain names are made up of a simple combination of the Complainant's trademark and the geographical location of Thailand or a generic term (i.e. "wallet"). Many panels have held that the addition of a geographical location or generic term to a domain name incorporating a trademark will not suffice to make it distinguishable from that trademark. Domain names which differ from a trademark by only minor variations have a greater tendency to be confusingly similar to the trademark where the trademark is highly distinctive, see *Reuters Limited v. Global Net 2000 Inc.*, WIPO Case No. D2000-0441.

Additionally, Respondent's use of the Disputed Domain Names contributes to the confusion. Respondent is redirecting the Disputed Domain Name <wechatthailand.com> to the website at the Disputed Domain Name <wechat-wallet.com> and is featuring Complainant's WECHAT trademark and trademark logo on the website. As a result, Respondent's use of the Disputed Domain Names to resolve to a website that features Complainant's Trademark logo is further evidence that the Disputed Domain Names are confusingly similar to Complainant's Trademark.

Therefore, the Panel finds that the disputed domain names < wechat-wallet.com > and < wechatthailand.com > are, for all practical purposes, identical to the trademark "Wechat", which forms one of the Complainant's Trademarks, so as to cause confusion; hence, the Complainant has satisfied its burden under paragraph 4(a)(i) of the Policy.

ii) Rights and Legitimate Interests

On the basis of the statements and supporting evidence of Complainant, the Panel concludes that Respondent does not have any rights or legitimate interest in the domain names < wechat-wallet.com > and < wechatthailand.com >.

Under Paragraph 4 (c) of the Policy, Respondent may demonstrate that it has a right or a legitimate interest to a domain name for the purpose of Article 4(a) (ii), inter alia, by providing evidence of any of the following circumstances: "(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.”

By not submitting a Response, Respondent has failed to invoke any circumstances, which could demonstrate any right or legitimate interest in the domain names. Complainant has stated uncontested that it did not grant to Respondent any right (license) to use its trademark or to apply for the domain names < wechat-wallet.com > and < wechatthailand.com >.

In view of the fact that Wechat is a famous trademark, Respondent’s use of the website - if and to the extent it offered goods or services - cannot be considered bona fide. Respondent has not demonstrated that it has been commonly known by the domain names < wechat-wallet.com > and < wechatthailand.com >. Moreover, Respondent registered the Disputed Domain Names on June 18, 2017, and February 23, 2019, respectively, which is after Complainant’s registration of its WECHAT trademark with the DIPT, the USPTO, EUIPO and HKIPD, and also after the Complainant’s registration of its <wechat.com> domain name on November 28, 2003. The Panel further finds that Respondent is not making a legitimate, non-commercial, or fair use of < wechat-wallet.com > and < wechatthailand.com >.

Accordingly, the Panel concludes that the Respondent has no rights or legitimate interests in the Disputed Domain Name within paragraph 4(a) (ii) and 4(c) of the Policy.

iii) Bad Faith

After a careful examination of the four non-exclusive examples enumerated in paragraph 4 (b) of the UDRP, the panel ultimately found, that, based on the available facts and circumstances, the registration and use of the domain name could be said to have been made in bad faith.

Respondent necessarily knew, at least constructively based on the activities and trademarks registrations, that Complainant had established legal rights in the marks Wechat. See *Waterman, S.A.S. v. Brian Art, WIPO Case No. D2005-0340* (finding bad faith registration and noting that complainant’s mark was well-known); *Marconi Data Systems, Inc. v. IRG Coins and Ink Source, Inc., WIPO Case No. D2000-0090* (registration of a mark puts a respondent on constructive notice); *Microsoft Corporation v. Party Night, Inc. d/b/a Peter Carrington, WIPO Case No. D2003-0501* (“it is not reasonable to expect the Respondent to register the disputed Domain Names if the Respondent had no knowledge of the Complainant’s trademark and services in connection thereto.”). Respondent knowingly and intentionally registered both Domain Names at issue here incorporating the Complainant’s mark identically and in its entirety into the domain names < wechat-wallet.com > and < wechatthailand.com >.

Respondent registered not only one, but two domain names which are confusingly similar to Complainant’s Trademark. As such, Respondent has demonstrated a knowledge of and familiarity with Complainant’s brand and business. Additionally, Respondent features Complainant’s Trademark logo and information about Complainant’s WeChat app on the Disputed Domain Name’s website. In light of the facts set forth within this Complaint, it is “not possible to conceive of a plausible situation in which the Respondent would have been unaware of” the Complainant’s brand at the time the Disputed Domain Names were registered. See *Telstra Corp. Ltd. v. Nuclear Marshmallows, D2000-0003*.

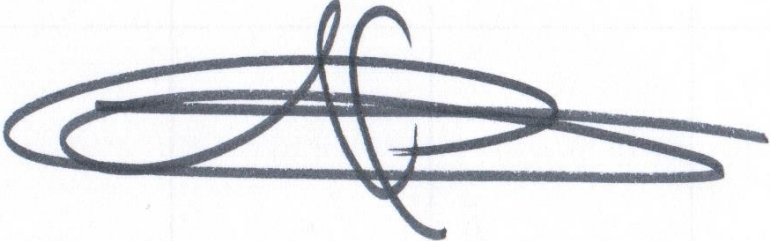
The purpose to be reasonably inferred from the facts is that Respondent intended to trade upon the goodwill WeChat has in its marks, utilizing the confusion attendant upon the use of the Complainant's marks to attract Internet traffic to Respondent's site(s) for commercial gain. See *America Online, Inc. v. Anson Chan, WIPO Case No. D2001-0004*. This is sufficient to establish bad faith registration.

Consequently, the Panel concludes that the Respondent violated paragraph 4(a)(iii) of the Policy and specifically paragraph 4(b)(i) thereof. Thus, the Panel concludes that the Complainant has provided sufficient proof of its allegations, with respect to the Disputed Domain Name, to establish a case under paragraph 4(a) of the Policy upon which the relief it now seeks can be granted.

6. Decision

Based on the above analysis, the Panelist decides that: (1) the disputed domain names < wechat-wallet.com > and < wechatthailand.com> are confusingly similar to the Complainant's name or mark in which the complaint has rights; (2) the Respondent has no right or legitimate interest in respect of the Disputed Domain Names; (3) the Respondent has registered and is using the Disputed Domain Name in bad faith.

Accordingly, under paragraphs 4(i) of the Policy and 15 of the Rules, the Panelist grants the relief sought by the Complainant. The disputed domain names, < wechat-wallet.com > and < wechatthailand.com>, are ordered transferred to the Complainant.

A handwritten signature in dark ink, consisting of several overlapping loops and a long horizontal stroke, positioned above the name of the panelist.

Prof. Julien Chaisse
Panelist

Dated: June 25, 2021