



(Hong Kong Office)

ADMINISTRATIVE PANEL DECISION

Case No.	HK-2101553
Complainant:	Television Broadcasts Limited
Respondent:	个人/ 大大万
Disputed Domain Name(s):	<IKTVB.COM>

1. The Parties and Contested Domain Name

The Complainant is Television Broadcasts Limited, 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 个人/ 大大万, of jkjkjkj, dd, dad 85014, KH.

The domain name at issue is <IKTVB.COM>, registered by Respondent with NameSilo, LLC, of 1300 E. Missouri Avenue, Suite A-110, Phoenix, AZ 85014, United States.

2. Procedural History

On October 8, 2021, pursuant to the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”) and the Rules for the Uniform Domain Name Dispute Resolution Policy (the “Rules”), the Complainant submitted a Complaint to the Hong Kong Office (“HK Office”) of the ADNDRC (“ADNDRC”). On the same day, the HK Office sent to the Complainant by email an acknowledgment of the receipt of the Complaint and reviewed the format of the Complaint for compliance with the Policy, the Rules and the HK Office Supplemental Rules. The HK Office also notified the Registrar of the Complaint by email. The Registrar replied to the HK Office on the same day.

On October 11, 2021, the HK Office informed the Complainant that the information of the Respondent and Registrar in the Complaint were different from the WHOIS information provided by the Registrar. On the same day, the Complainant submitted a revised Complaint to the HK Office.

On October 12, 2021, the HK Office informed the Complainant that the information of the Respondent was incorrect and requested the deficiencies in the Complaint to be rectified. On the same day, the Complainant submitted a revised Complaint to the HK Office and the HK Office confirmed that the Complaint is in administrative compliance with the

Policy. The HK Office forwarded the Complaint to the Respondent and the due date of the Response was November 1, 2021.

The Respondent did not file a Response and on November 2, 2021, the HK Office informed the Respondent of its default. On the same day, the HK Office appointed Jonathan Agmon as the sole panelist in this matter.




3. Factual background

The Complainant, Television Broadcasts Limited, is a renowned commercial television station in Hong Kong. The Complainant states that it commonly known as “TVB” and that it is the first wireless commercial television station in Hong Kong. It was first established in 1967 and has since grown to a size of over 3,600 staff and artistes worldwide. Since 1988, shares of the Complainant have been publicly listed on the Hong Kong Stock Exchange.

The principal activities of the Complainant are television broadcasting, programme production and other broadcasting-related activities such as programme and Video-On-Demand (“VOD”) licensing, digital media business, and audio and video products selling and distribution. It is one of the largest producers of Chinese language programmes in the world. Its Chinese programmes are internationally acclaimed and dubbed into other languages and are distributed to more than 200 countries and regions.

The Complainant and its subsidiaries have registered and own over 170 domain names, bearing the mark “TVB” including <tvb.com> which was registered on February 17, 1999.

The Complainant is the owner of numerous “TVB” and “iTVB” word and formative marks (collectively the “TVB Marks”) worldwide, including the following:

- Hong Kong Trade Mark No. 199608823AA for “” registered on June 8, 1992;
- Hong Kong Trade Mark No. 1998B11494 for “” registered on May 30, 1997;
- Hong Kong Trade Mark No. 301370862 for “” registered on June 24, 2009; and
- People’s Republic of China Trademarks No. 13067593, 13067594, 13067592, 13067591 and 13067590 for “iTVB” registered on August 12, 2013 respectively.

The disputed domain name <IKTVB.COM> was registered on October 1, 2017 and resolved to a website providing large volumes of the Complainant’s television programmes to the public.

The Respondent appears to be an individual.

4. Parties’ Contentions

A. Complainant

The Complainant's contentions may be summarized as follows:

- i. The Complainant argues that the disputed domain name is identical or confusingly similar to a trademark or service in which the Complainant has rights. The Complainant holds national and international trademark registrations for the TVB Marks and the mark is wholly incorporated into the disputed domain name with an intentional misspelling.
- ii. The Complainant contends that the Respondent has no rights or legitimate interests in respect of the domain name. The Respondent is not commonly known by the disputed domain name and is not authorized by the Complainant to register domain names incorporating the Complainant's mark. The Respondent is also not making any legitimate or fair use of the disputed domain name.
- iii. The Complainant further contends that the disputed domain name has been registered and is being used in bad faith. At the time of registration of the disputed domain name, the Respondent knew, or at least should have known, of the existence of the Complainant and its TVB Marks. The Respondent is using the disputed domain name to directly compete with the Complainant's business and mislead the public to attract Internet users to the Respondent's website for commercial benefits.

B. Respondent

The Respondent did not file a Response to the Complaint.

5. Findings

The ICANN Uniform Domain Name Dispute Resolution 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

Paragraph 4(a)(i) of the Policy requires the Complainant to show that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights.

The Complainant has provided evidence of its trademark registrations in Hong Kong and numerous jurisdictions worldwide.

A registered trademark provides a clear indication that the rights in the mark shown on the trademark certificate belong to its respective owner. The disputed domain

name <IKTVB.COM> incorporates the Complainant's TVB Marks in its entirety (see *Wal-Mart Stores, Inc. v. Kuchora, Kal*, WIPO Case No. D2006-0033; *Hoffmann-La Roche Inc. v. Andrew Miller*, WIPO Case No. D2008-1345).

It is well established that a domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Overview 3.0"), section 1.9. Here, the addition of the letter "K" does not avoid confusing similarity.

It is also established that the applicable gTLD in a domain name is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test (WIPO Overview 3.0, section 1.11). The addition of a gTLD to a disputed domain name does not avoid a finding of confusing similarity as the use of a gTLD is technically required to operate a domain name (see *Accor v. Noldc Inc.*, WIPO Case No. D2005-0016; *F. Hoffmann-La Roche AG v. Macalve e-dominios S.A.*, WIPO Case No. D2006-0451; *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. D2000-0003; *L'Oréal v Tina Smith*, WIPO Case No. D2013-0820; *Titoni AG v Runxin Wang*, WIPO Case No. D2008-0820; and *Alstom v. Itete Peru S.A.*, WIPO Case No. D2009-0877).

The disputed domain name which consists of the Complainant's TVB Marks, intentional misspelling of the Complainant's TVB Marks and the gTLD ".com" which in the Panel's view does not avoid a finding of confusing similarity with the Complainant's trademarks

Consequently, the Panel finds that the Complainant has shown that the disputed domain name is identical or confusingly similar to a trademark in which the Complainant has rights and the element under paragraph 4(a)(i) of the Policy is satisfied.

B) Rights and Legitimate Interests

Paragraph 4(a)(ii) of the Policy requires the complainant to show that the respondent has no rights or legitimate interests in respect of the domain name. Once the complainant establishes a *prima facie* case that the respondent lacks rights or legitimate interests in the domain name, the burden of production shifts to the respondent to show that it has rights or legitimate interests in respect to the domain name (see WIPO Overview 3.0, section 2.1).

In the present case, the Complainant has demonstrated *prima facie* that the Respondent lacks rights or legitimate interests in respect of the disputed domain name and the Respondent has failed to assert any such rights or legitimate interests.

The Complainant submitted evidence that it did not authorize or license the Respondent to use the TVB Marks (see *OSRAM GmbH. v. Mohammed Rafi/Domain Admin, Privacy Protection Service INC d/b/a PrivacyProtect.org*, WIPO Case No. D2015-1149; *Sanofi-Aventis v. Abigail Wallace*, WIPO Case No. D2009-0735).

The Complainant also submitted that the Respondent's use of the disputed domain names resolved to an active website featuring the Complainant's TVB Marks and providing large volumes of the Complainant's television programs to the public without the Complainant's authorization.

In addition, the evidence submitted by the Complainant shows that the Respondent is also not known by the disputed domain name.

The Respondent did not submit a Response in the present case and did not provide any explanation or evidence to show rights or legitimate interests in the disputed domain names which is sufficient to rebut the Complainant's *prima facie* case.

The Panel is therefore of the view that the Respondent has no rights or legitimate interests in respect of the disputed domain names and accordingly, paragraph 4(a)(ii) of the Policy is satisfied.

C) Bad Faith

The complainant must show that the respondent registered and is using the disputed domain name in bad faith (paragraph 4(a)(iii) of the Policy). Paragraph 4(b) of the Policy provides circumstances that may evidence bad faith under paragraph 4(a)(iii) of the Policy.

The Complainant has submitted evidence that the disputed domain name resolved to an active website featuring the Complainant's TVB Marks which provides large volumes of the Complainant's television programs to the public. It is clear that the Respondent was aware of the Complainant at the time of registration of the disputed domain name and specifically targeted the Complainant and its business. It is up to the Respondent to control the content appearing on the website under the disputed domain name. The Panel therefore takes the view that the Respondent is riding on the reputation of the Complainant and is using the disputed domain name to deliberately attract Internet users to its website for commercial benefit. The Respondent is making use of the Complainant's reputation and its works to create a likelihood of confusion with the Complainant's TVB Marks and have misled the public to believe that the source, sponsorship, affiliation, or endorsement of Respondent's website or location or of a product or service on Respondent's website or location are associated with Complainant, or with its authorization.

The Complainant also submitted evidence of cease-and-desist letters sent to the Respondent, disputed domain name website's Internet services provider and Registrar prior to the start of the proceedings. Notably, the Respondent did not respond to the letter.

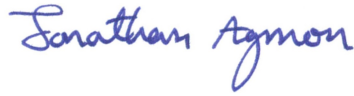
The Respondent also did not submit a Response in this proceeding which is a further indication of the Respondent's bad faith, which has been considered by the Panel.

Based on the totality of evidence presented to the Panel, including the confusing similarity between the disputed domain name and the Complainant's TVB Marks, the fact that the disputed domain name is being used to publish the Complainant's works to the public, and the fact that no Response was submitted by the Respondent

to the Complaint, the Panel draws the inference that the disputed domain name was registered and is being used in bad faith, and accordingly, paragraph 4(a)(iii) of the Policy is 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 <IKTVB.COM> be transferred to the Complainant.



Jonathan Agmon
Panelist

Dated: November 16, 2021