



Asian Domain Name Dispute Resolution Centre

hong kong

(Hong Kong Office)

ADMINISTRATIVE PANEL DECISION

Case No.	HK-2201607
Complainant:	Tencent Holdings Limited
Respondent:	Shawn Naples
Disputed Domain Name(s):	<gameloop.me>

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 Respondent is Shawn Naples, of 4935 Half and Half Drive Corcoran New York, NY 10008, United States.

The domain name at issue is <gameloop.me>, registered by Respondent with NameCheap, Inc., of 4600 East Washington Street, Suite 33, Phoenix AZ 85034, United States.

2. Procedural History

On March 9, 2022, 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 informing the identity of the Registrant.

On March 10, 2022, the HK Office informed the Complainant that the information of the Respondent in the Complaint was different from the WHOIS information provided by the Registrar.

On March 11, 2022, the Complainant submitted an amended Complaint to the HK Office.

On March 12, 2022, the HK Office confirmed receipt and forwarded the amended Complaint to the Respondent. The due date of the Response was April 1, 2022. On the same day, the Respondent confirmed receipt and informed the HK Office that he “[was] going to close” the disputed domain name. The Respondent did not file a Response and on April 3, 2022, the HK Office informed the Respondent of its default. On the same day, the HK Office appointed Francine Tan as the sole panelist in this matter.

3. Factual background

The Complainant, Tencent Holdings Limited, is a Chinese multinational conglomerate holding company founded in 1998. It states that it is the world’s largest video game company. The Complainant partly owns “battle royale games” such as PlayerUnknown’s Battlegrounds (“PUBG”). GameLoop is a game emulator launched in 2018. It first entered the market as Tencent Gaming Buddy and was rebranded as “GameLoop” in July 2019. GameLoop enables users to download and use hundreds of mobile games and applications for free. Currently, GameLoop has over 50 million monthly active users around the world. GameLoop is also the official android emulator for PUBG Mobile, Call of Duty Mobile and Arena of Valor. There are over 1,000 popular games provided in GameLoop.

The Complainant is the registered proprietor of, *inter alia*, numerous trademark registrations for GAMELOOP marks across various jurisdictions. These include:



- Turkey Trade Mark Registration No. 2019/83886 for “” (“the Logo”), registered on December 12, 2020;
- Singapore Trade Mark Registration No. 40202027796T for “GameLoop”, registered on December 30, 2020;
- India Trade Mark Registration No. 4806851 for “GameLoop”, registered on January 4, 2021;
- Philippines Trade Mark Registration No. 521284 for “GameLoop”, registered on May 21, 2021;
- Macao Trade Mark Registration No. N/177146(638) for “GameLoop”, registered on May 26, 2021; and
- Taiwan Trade Mark Registration No. 02155840 for “GameLoop”, registered on July 16, 2021.

In addition, the Complainant states that it has common law rights in the GAMELOOP mark. The Complainant maintains and operates a website using the domain name <gameloop.fun>, which was registered on July 9, 2019. The Complainant has also maintained an official Facebook page <<https://www.facebook.com/GameLoopOfficial/>> since July 18, 2019. The Complainant has used the GAMELOOP mark in global

tournaments partnerships since July 2019. For the aforesaid reasons and because it has significantly invested in advertising and promoting its GAMELOOP trademark worldwide, the Complainant states that its GAMELOOP brand is well recognized by the public and in the industry.

The Complainant uses the domain names <gameloop.com> and <gameloop.fun> to promote its products or services under the GAMELOOP brand. These domain names have been registered and used by the Complainant since 2020 and 2019, respectively. According to Similarweb.com, <gameloop.com> had an average monthly visit of 1.9 million from November 2021 to January 2022, ranking the website as the 42,499th most popular website in the world and 7,778th in Turkey.

The Complainant first tried to contact the Respondent on January 21, 2022, through a cease-and-desist letter sent by email. The Complainant received a reply that the Respondent would transfer the disputed domain name for the price of USD10,000. The Complainant subsequently noted that the disputed domain name was listed for sale at USD15,000 after it received the Respondent's reply.

The disputed domain name <gameloop.me> was registered on September 1, 2019, and resolves to an active website which features the Logo and appears to copy the Complainant's official website at <gameloop.com>.

4. Parties' Contentions

A. Complainant

The Complainant's contentions may be summarized as follows:

- i. The disputed domain name is identical or confusingly similar to the Complainant's GAMELOOP mark in which they have rights.
- ii. The Respondent has no rights or legitimate interest in respect of the disputed domain name. The Complainant never gave permission, authorized or licensed the Respondent to use the GAMELOOP trade mark in any manner or to register the disputed domain name. The Respondent is not sponsored by or affiliated with the Complainant.
- iii. The Respondent's use of the disputed domain name cannot constitute legitimate fair use even if the statement "Gameloop | Not a Official Site of Ten" is shown on his website. The statement, which appears to be a disclaimer, does not adequately disclose the relationship, or lack thereof, between the Complainant and the Respondent. The statement is located at the foot of the website in small text and should not be considered an effective disclaimer. In addition, the number of sponsored advertisements found on the disputed domain name's website does not support fair use.
- iv. The Respondent registered and is using the disputed domain name in bad faith. The Respondent is using the disputed domain name to impersonate the Complainant and its website. It also offered the disputed domain name for sale at an amount which far exceeds the Respondent's out-of-pocket expenses in registering the disputed domain name. The Respondent more likely than not

knew of the Complainant and targeted its GAMELOOP trade mark. The Respondent's use of a privacy service to hide its identity is also evidence of bad faith registration and use. The disputed domain name resolves to a website that attempts to infect Internet users' computers with viruses or malware. The Respondent's website allows the download of an unauthorized version of GameLoop. Such use of the disputed domain name is bad faith use.

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;
- 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 has provided evidence of its trademark registrations for, and rights in, the GAMELOOP mark.

The Complainant's GAMELOOP mark is reproduced entirely in the disputed domain name. The Panel therefore finds that the disputed domain name is identical to the Complainant's GAMELOOP mark. The inclusion of the generic Top-Level Domain ".me", does not remove the identity with the Complainant's GAMELOOP trade mark as it is merely a technical requirement for domain name registrations.

The first element of paragraph 4(a) of the Policy has been satisfied.

B) Rights and Legitimate Interests

The Panel finds that the Complainant has demonstrated a *prima facie* case that the Respondent lacks rights or legitimate interests in respect of the disputed domain name. There is no evidence that the Respondent, "Shawn Naples", is commonly known by the disputed domain name. The Respondent does not appear to use the disputed domain name for a legitimate noncommercial or fair use, without intent for commercial gain. The Respondent's conduct of: (i) using the Logo on his website as well as his attempt to mimic the Complainant's official website and pass off as the Complainant; (ii) offering to sell the disputed domain name to the Complainant for USD10,000; (iii) posting a price tag of USD15,000 for the sale of the disputed domain name; (iv) using the disputed domain name for the purpose of distributing

malware¹ are all evidence of the Respondent's lack of rights and legitimate interests in the disputed domain name. Such use of the disputed domain name for an illegal activity can never confer rights or legitimate interests on the Respondent.

Once a complainant has established a *prima facie* case that the respondent lacks rights or legitimate interests in the disputed domain name, the burden of production shifts to the respondent to show that it has rights or legitimate interests in respect of the disputed domain name. (See *WIPO Overview 3.0*, section 2.1.) The Respondent has not submitted a Response to the Complaint, nor has he provided any explanation or evidence to show he has rights or legitimate interests in the disputed domain name. The Respondent has therefore failed to rebut the Complainant's *prima facie* case.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

The second element of paragraph 4(a) of the Policy has been satisfied.

C) Bad Faith

A complainant has the burden of proving that the respondent registered and is using the disputed domain name in bad faith. Paragraph 4(a)(iii) of the Policy states that:

“[T]he following circumstances, in particular but without limitation, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith:

- (i) circumstances indicating that [the respondent has] registered or [the respondent has] 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) [the respondent has] 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 [the respondent has] engaged in a pattern of such conduct; or
- (iii) [the respondent has] registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the domain name, [the respondent has] intentionally attempted to attract, for commercial gain, Internet users to [its] web site or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of [the respondent's] web site or location or of a product or service on [the respondent's] web site or location.”

¹ See *WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition*, section 2.13.1 [“the WIPO Overview 3.0”].

Given the fame of the Complainant and its GAMELOOP mark and the evidence submitted by the Complainant, the Panel is persuaded that the Respondent specifically targeted the Complainant and its GAMELOOP mark. It is inconceivable that the Respondent was unaware of the Complainant and its mark when he registered the disputed domain name, given the fact that the Respondent registered the disputed domain name very shortly after the Complainant's rebranding to GAMELOOP and the Respondent's website features the Logo and mimics the Complainant's website. The Respondent's bad faith is exacerbated by the fact that his website to which the disputed domain name resolves appears to distribute malicious malware and/or viruses to Internet users. This allegation by the Complainant has not been disputed by the Respondent.

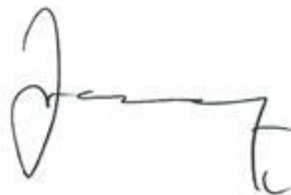
The Respondent's attempt to sell, rent, or otherwise transfer the disputed domain name for valuable consideration in excess of out-of-pocket expenses constitutes bad faith, per paragraph 4(b)(i) of the Policy. Further, the disputed domain name is identical to the Complainant's GAMELOOP mark which the Panel finds demonstrates a blatant attempt by the Respondent to confuse and/or mislead Internet users seeking or expecting the Complainant. This constitutes evidence of bad faith under paragraph 4(b)(iv) of the Policy.

The mere existence of the disclaimer on the Respondent's webpage in this case does not cure the finding of bad faith and in fact betrays an awareness on the Respondent's part that users would be confused. (See WIPO Overview 3.0, section 3.6.)

The third element of paragraph 4(a) of the Policy has been 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 <gameloop.me> be transferred to the Complainant.



Francine Tan
Panelist

Dated: April 8, 2022