



(Hong Kong Office)

## ADMINISTRATIVE PANEL DECISION

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<b>Case No.</b>	HK-2201660
<b>Complainant:</b>	Tencent Holdings Limited
<b>Respondent:</b>	Seo Juming
<b>Disputed Domain Name(s):</b>	<TENCENTLOTTERY.VIP>

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### 1. The Parties and Contested Domain Name

1. The Complainant is Tencent Holdings Limited of P.O. Box 2681 GT, Century Yard, Cricket Square, Hutchins Drive, George Town, Grand Cayman, Cayman Islands.
2. The Respondent is Seo Juming of Sea Residences Tower D, Pasay, Metro Manila 1300, the Philippines.
3. The domain name at issue is <TENCENTLOTTERY.VIP>, registered by the Respondent with Dynadot, LLC of 210 S Ellsworth Ave 345 San Mateo, CA 94401 US (the “Registrar”).

### 2. Procedural History

4. The Complainant filed this complaint with the Asian Domain Name Dispute Resolution Centre (ADNDRC) (Hong Kong Office) (the “ADNDRC”) on 05 September 2022, pursuant to the Uniform Domain Name Dispute Resolution Policy (“Policy”) approved by the Internet Corporation for Assigned Names and Numbers (“ICANN”) on 24 October 1999, the Rules for Uniform Domain Name Dispute Resolution Policy (“Rules”), approved by ICANN Board of Directors on 28 September 2013 and the ADNDRC Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (“Supplemental Rules”) effective from 31 July 2015.
5. On 06 September 2022, the ADNDRC transmitted by email to the Registrar a request for confirmation of the WHOIS records of the Disputed Domain Name and other related information.
6. On 06 September 2022, the Registrar confirmed by email that it is the registrar of the Disputed Domain Name that was registered by the Respondent; and that the Policy is applicable to the dispute relating to the Disputed Domain Name and the language of the Registration Agreement of the Disputed Domain Name is English and provided to the ADNDRC the Respondent’ email address and other WHOIS information of the Disputed Domain Name.
7. A copy of the Complaint was sent to the Respondent on 07 September 2022. In accordance with Article 5(a) of the Rules, the due date for the Respondent to submit a Response to the

Complaint was 27 September 2022. The Respondent failed to file a response within the time limit.

8. On 28 September 2022, the ADNDRC issued a notification of the Respondent in Default, confirming that the ADNDRC did not receive response forms from the Respondent in respect of the complaint concerning the Disputed Domain Name within the required time.
9. On 28 September 2022, after confirming that he was able to act independently and impartially between the parties in compliance with Article 7 of the Rules, the ADNDRC appointed Mr David Allison as the sole Panellist in this matter.

### 3. Factual background

10. The Complainant is one of the world's best known multi-national internet companies specialising in internet-based technology and entertainment services. Founded in 1998, the Complainant is a leading provider of Internet value added services in China. The Complainant provides social platforms, with its most well-known platforms being QQ (QQ Instant Messenger), Weixin/WeChat, QQ.com, QQ Games, Qzone, and Tenpay.
11. For the year ended December 31, 2017, the monthly active user accounts (MAU) of QQ was 783 million while its peak concurrent user accounts reached 271 million. Combined MAU of Weixin and WeChat was 989 million.
12. The Complainant is known by the name of TENCENT and has registered a number of trademarks for TENCENT in numerous jurisdictions. Among its trademarks are:

Trademark	Jurisdiction	Reg. No.	Class	Filing & Reg. Date
TENCENT 腾讯	Philippines	10796	9, 16, 35, 38, 41, 42, 45	2013-09-09 / 2016-07-14
TENCENT	USA	5409861	16	2015-05-18 / 2018-02-27
TENCENT	USA	5500137	41	2015-05-18 / 2018-06-26
TENCENT	EU	006033773	9, 38, 41, 42	2007-06-15 / 2008-11-18
TENCENT	Hong Kong	300169506AA	9, 38, 42	2004-03-02

13. The Complainant has also registered and used the domain name [www.tencent.com](http://www.tencent.com) since at least 1998.
14. The Respondent is Seo Jumung, an individual residing in the Philippines. As the Respondent has not responded to the Complaint and no information about the Respondent is shown on the Disputed Domain, little is known about the Respondent.

#### **4. Parties' Contentions**

##### **A. Complainant**

The Complainant's contentions may be summarized as follows:

- i. The disputed domain name is identical to the trademarks owned by the Complainant;
- ii. The Respondent has no rights or interests in the disputed domain name since the disputed domain name has no relation to the Respondent's business; and
- iii. The disputed domain name has been registered and is being used in bad faith.

##### **B. Respondent**

The Respondent has not filed any response to the Complaint.

#### **5. Findings**

15. 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**

16. The Complainant has adduced sufficient evidence to demonstrate that it has clear trademark rights to the "TENCENT" trademark in many countries, including the Respondent's home country, The Philippines. The Complainant has also provided abundant relevant evidence to clearly establish that the trademark "TENCENT" is relatively well known and has a high reputation among the relevant public. As such, the Panel finds that the Complainant has sufficient rights and interests in the "TENCENT" mark.

17. When comparing the Complainant's marks and the disputed domain name, it is clear that they are confusingly similar in terms of their key elements. While the disputed domain name also includes the element "LOTTERY" after the TENCENT element, consumers would not regard this as a particularly distinctive element but rather a modifier or sub-site of the dominant "TENCENT".

18. When comparing the dominant and distinctive element of the Disputed Domain Name and the Complainant's TENCENT trademarks, it is clear that they are confusingly similar. As such, the Complainant has made out the first element.

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

19. The Complainant argues that the Respondent has no rights or legitimate interests in the disputed domain name.
20. In this case, it is difficult to see any legitimate interest that the Respondent could have in the disputed domain name. The Respondent has chosen a domain name which is deceptively similar to the Complainants' well-known and distinctive trademarks despite the fact that neither the content on the disputed domain name nor the Respondent's business name appears to have any relationship whatsoever with the "TENCENT" mark.
21. As there is no obvious, legitimate reason why the TENCENT name has been chosen and as the Respondent has not responded to the Complaint, there is no evidence to counter the Complainants' claim. Therefore, the second element is made out.

## **C) Bad Faith**

22. To establish the third element, the Complainant must establish that the Respondent both has registered and is using the disputed domain name in bad faith. In this case, the Complainant has registered and actively used its distinctive and well-known trademarks for many years and is an extremely well-known company in respect of internet related services. As such, it is highly unlikely that that the Respondent would have been unaware of the Complainants' marks and website prior to registering the Disputed Domain name.
23. In addition, as the Respondent prominently displays other logos owned by the Complainant on the disputed domain name, presumably to mislead web users that the disputed domain name is affiliated with or owned by the Complainant, this is both evidence that the Respondent was well aware of the Complainant and its marks prior to registering the disputed domain name, and is also of itself, further evidence of bad faith.
24. Bad faith may be established if UDRP paragraph 4(b)(iv) is satisfied, namely that *"...by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your website...by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of your web site ...or a product or service on your website"*
25. In this case, the Respondent's use of the disputed domain name and the website clearly meet the definition under UDRP paragraph 4(b)(iv). Accordingly, the Panel concludes that the third element is made out.

## 6. Decision

26. The Panel finds that the Complainant has satisfied all three elements of UDRP paragraph 4(a). Accordingly, the Panel orders that the disputed domain name <TENCENTLOTTERY.VIP > be transferred to the Complainant.

*David Allison*

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David Allison  
Panellist

Dated: 11 October 2022