



(Hong Kong Office)

ADMINISTRATIVE PANEL DECISION

Case No.	HK-2201668
Complainant:	Tencent Holdings Limited
Respondent:	Mysin Yurievich
Disputed Domain Name(s):	<midasbuy.shop>

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 with a Principal Place of Business at China, represented by Paddy Tam, CSC Digital Brand Services Group AB.

The Respondent is **Mysin Yurievich**, of st. Molodezhnaya, house 10, apt. 1, Kuzmino-Gat, Tambov district, 392522 Russia, email: info.bpw@gmail.com.

The domain name at issue is <midasbuy.shop>, registered by Respondent with **NiceNIC International Group Co. Limited** (“NiceNIC”) of Room 1704 Hang Lung Center Paterson Street, Causeway Bay, Hong Kong, Phones: +86 13750040280, +86 13539583645; emails: admin@nicenic.net; support@nicenic.net.

2. Procedural History

The Complainant was filed electronically with the Hong Kong Office of Asian Domain Name Dispute Resolution Centre (the “Centre” or “ADNDRC”) on September 21, 2022.

On September 22, 2022, ADNDRC confirmed receipt of the Complaint and transmitted by email to the Registrar NiceNIC, a request for registrar verification in connection with the disputed domain name. On September 27, 2022 ADNDRC sent a reminder to the concerned Registrar. On September 27, 2022, the Registrar transmitted by email to ADNDRC its verification response advising of the identity of the Respondent of the disputed domain name as Mysin Yurievich and confirmed that the disputed domain name was placed on a Registrar LOCK. On September 27, 2022 and September 28, 2022 ADNDRC requested the Registrar to complete its registrar verification response. On September 28, 2022, the concerned Registrar completed its answer, providing the following contact details for the disputed domain name, being st. Molodezhnaya, house 10, apt. 1, Kuzmino-Gat, Tambov district, Russia 392522, +1.321746127481, ‘info.bpw@gmail.com’ as the Registrant, technical, administrative and billing contact of

the disputed domain name, which differed from the named Respondent and contact information in the Complaint. According to Article 4(d) of the Rules ADNDRC notified the Complainant of the Deficiency of the Complaint on September 29, 2022 providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. The Complainant filed an amendment to the Complaint on October 4, 2022.

ADNDRC verified that the Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy”) adopted by the Internet Corporation for Assigned Names and Numbers (“ICANN”) on August 26, 1999 and approved by ICANN on October 24, 1999, the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”) approved by ICANN on September 28, 2013, and in effect as of July 31, 2015, and the ADNDRC Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”) in effect as of July 31, 2015.

In accordance with the UDRP Rules, paragraphs 2 and 4, ADNDRC formally notified the Respondent of the Complaint, to the person listed on Respondent’s registration as technical, administrative, and billing contact, and to ‘info.bpw@gmail.com’, ‘help@midasbuy.shop’, ‘payments@midasbuy.com’ and to the corresponding postmaster’s email address by e-mail, including a Written Notice, the Complaint (and Annexes) to the Respondent. The proceedings commenced on October 7, 2022. In accordance with the UDRP Rules, paragraph 5, the due date for the Response was October 27, 2022. The Respondent failed to file its response by the due date, or any response on or before October 27, 2022.

Accordingly, the ADNDRC issued notification of the Respondent’s default on October 28, 2022.

On October 28, 2022, pursuant to the Complainant’s request to have the dispute decided by a single-member Panel, ADNDRC appointed María Alejandra López García as Panelist. The Panel has confirmed the Statement of Acceptance and Declaration of Impartiality and Independence, as required by ADNDRC to ensure compliance with the UDRP Rules, paragraph 7.

Having reviewed ADNDRC’s records, the Administrative Panel (“the Panel”) finds that ADNDRC has discharged its responsibility under paragraph 2(a) of the UDRP Rules “to employ reasonably available means calculated to achieve actual notice to Respondent” through submission of electronic and Written Notices, as defined in the UDRP Rules paragraph 2(a)(i) and (ii). Therefore, the Panel may issue its decision based on the documents submitted and in accordance with the Policy, the UDRP Rules and the Supplemental Rules and any rules and principles of law that the Panel deems applicable.

The Registrar of the disputed domain name is NiceNIC. The Respondent registered the disputed domain name on **June 19, 2021**.

3. Factual background

For the Complainant

The Complainant is a leading provider of Internet value added services in China, founded in November 1998. The Complainant is the world's largest video game company. The

Complainant has maintained steady growth under its user-oriented operating strategies. On June 16, 2004, the Complainant went public on the main board of the Hong Kong Stock Exchange (SEHK 700). The Complainant partly owns battle royale games such as Player Unknown's Battlegrounds (PUBG).

MidasBuy is a top-up center for popular video games, music, videos and other forms of entertainment. It is mostly known for handling the in-game purchases for PUBG and PUBG Mobile. The platform provides users with a number of special offers and promotional activities, including Unknown Cash (UC) for users to make in-game purchases.

The Complainant uses the domain name <midasbuy.com> to promote its services under the MIDASBUY brand, and it has been registered and continuously used since June 5, 2018. According to Similarweb.com (a website analytics provider), <midasbuy.com> had an average monthly visit of more than 2.6 million from June to August 2022, while ranking as the 17,315th most popular website in the world and 4,092nd in Turkey.

The Complainant owns the Trademarks MIDASBUY, including at European level, at least since 2020. According to the Registrar Verification Response, the disputed domain name was registered on **June 19, 2021**.

For the Respondent


The Respondent registered the disputed domain name on **June 19, 2021**. Apart from the information provided by the concerned Registrar of this Case, there is no further information about the Respondent. The Respondent did not reply to any of the Complainant's contentions.






4. Parties' Contentions

A. Complainant

The Complainant's contentions may be summarized as follows:

- i. The Complainant's MIDASBUY brand is well recognized and respected worldwide and in their industry. The Complainant has made significant investment to advertise and promote the Complainant's trademark worldwide in media and the internet.
- ii. The Complainant, is the owner of trademark registrations across various jurisdictions, as described below, being at the Russian Federal Service for Intellectual Property (ROSPATENT), the 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.

TRADEMARK	JURISDICTION	REG. No.	IC	FILING / REG. DATE (respectively)
MIDASBUY 	RU / ROSPATENT	761715	42	Nov. 20, 2019 June 10, 2020
MIDASBUY	RU / ROSPATENT	762531	35, 36	Nov. 13, 2019 June 18, 2020

				
MIDASBUY 	EM / EUIPO	018150428	35, 36	Nov. 11, 2019 March 12, 2020
MIDASBUY 	EM / EUIPO	018154572	42	Nov. 19, 2019 March 13, 2020
MIDASBUY 	HK / HKIPD	305112053	35, 36	Nov. 13, 2019 May 25, 2020
MIDASBUY 	HK / HKIPD	305119669	42	Nov. 21, 2019 May 25, 2020

- iii. The Complainant asserts that the Second Level Domain of the disputed domain name consists solely of the textual element of the Complainant's MIDASBUY trademark, resulting in a domain name that is identical to the Complainant's MIDASBUY trademark and thus meeting the requirements under Policy 4(a)(i); that Complainant holds trademark registrations for a design logo prominently featuring the word MIDASBUY, making the disputed domain name identical to the prominent textual element of Complainant's trademark.
- iv. The Complainant contends, that the Respondent's use of the disputed domain name contributes to the confusion. Respondent's use of the disputed domain name to resolve to a website that attempts to copy Complainant's official website <https://www.midasbuy.com> suggests that the Respondent intended the disputed domain name to be confusingly similar to Complainant's trademark as means of furthering consumer confusion.
- v. The Complainant contends that the Respondent is not sponsored by or affiliated with the Complainant in any way. Furthermore, the Complainant has not given to the Respondent permission, authorization or license to use Complainant's trademarks in any manner, including in domain names.
- vi. The Complainant asserts that the Respondent is not commonly known by the disputed domain name, including due to the revealed WhoIs record, which evinces a lack of rights or legitimate interests.
- vii. The Complainant asserts that at the time of filing the complaint, the Respondent was using a privacy WhoIs service, which past panels have also found to equate to a lack of legitimate interest.
- viii. The Complainant asserts that the disputed domain name resolves to a website that copied and attempted to duplicate the Complainant's official website by copying the Complainant's trademark logo as well as the design, color scheme, pictures and texts found on the Complainant's website. As such, the disputed domain name's website has purposely been designed to serve as an exact replica of Complainant's website, all as means of deceiving internet users into believing that the disputed domain name and its website are associated with Complainant. Respondent's attempt to pass off the disputed domain name as being affiliated with the Complainant, and in fact as being the Complainant, is in itself evidence of the fact that Respondent does not have rights and legitimate interests in the disputed domain name pursuant to 4(a)(ii).

- ix. The Complainant asserts that the use of the disputed domain name that resolves to a website attempting to pass off as Complainant's website and offering for sale of the Complainant's products and services, doesn't comply with the "Okidata Test".
- x. Also, that, the Respondent registered the disputed domain name on June 18, 2021, which is after Complainant's registration of its MIDASBUY trademark with the ROSPATENT, EUIPO and HKIPD.
- xi. By registering a domain name that consists solely of Complainant's MIDASBUY trademark, Respondent has created a domain name that is identical to Complainant's trademark, as well as its <midasbuy.com> primary domain name. As such, the Respondent has demonstrated a knowledge of and familiarity with Complainant's brand and business. Further, the composition of the disputed domain name and Respondent's use of the disputed domain name to attempt to imitate Complainant's official website make it clear that Respondent is targeting Complainant and its business.
- xii. The Complainant asserts that MIDASBUY is so closely linked and associated with Complainant that Respondent's use of this mark, or any minor variation of it, strongly implies bad faith – where a domain name is “so obviously connected with such a well-known name and products, ...its very use by someone with no connection with the products suggests opportunistic bad faith.” See *Parfums Christian Dior v. Javier Garcia Quintas*, WIPO Case No. D2000-0226 (WIPO May 17, 2000).
- xiii. That the ICANN policy dictates that bad faith can be established by evidence that demonstrates that “by using the domain name, [Respondent has] intentionally attempted to attract, for commercial gain, Internet users to [Respondent's] web site..., by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your web site or location or of a product or service on [Respondent's] web site or location.” See Policy 4(b)(iv). Here, Respondent creates a likelihood of confusion with Complainant and its trademark by resolving and/or redirecting the disputed domain name to websites that copy Complainant's logo and official website, with Respondent then attempting to profit from such confusion by selling UCs to users.
- xiv. The Respondent's actions create a likelihood of confusion as to the source, sponsorship, affiliation, or endorsement of the disputed domain name, and the Respondent is thus using the fame of the Complainant's trademark to improperly increase traffic to the website listed at the disputed domain name for Respondent's own commercial gain. It is well established that such conduct constitutes bad faith. See *Tencent Holding Limited v. Qiu Xiaoming*, HK-1901231 (ADNDRC Jun. 10, 2019).
- xv. That the Respondent's use of the disputed domain name constitutes a disruption of Complainant's business and qualifies as bad faith registration and use under Policy 4(b)(iii) because Respondent's domain name is confusingly similar to Complainant's trademarks and the website at the disputed domain name is being used to offer Complainant's goods or services without Complainant's authorization or approval.
- xvi. The Respondent here has previously been involved in the below-listed cases, which provides evidence of the pattern of cybersquatting in which Respondent is engaging:
-Samuel Kim v. Privacy service provided by Withheld for Privacy ehf / BPW, Mysyn Yurievich, WIPO Case No. D2021-2969 (WIPO Nov. 2, 2021)

-Zenith Payments Pty Ltd v. BPW Mysin Vadim Yurievich, WIPO Case No. D2021-3217 (WIPO Dec. 9, 2021).

B. Respondent

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

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.

The Panel will consider each of these requirements in turn.

A) Identical / Confusingly Similar

The Complainant has sufficiently proved before the Panel, that owns Trademark Rights for the purpose of the Policy, over the word MIDASBUY at least since **March 12, 2020** (EUIPO, MIDASBUY, Reg. No. 018150428) and since **June 10, 2020** (RU, MIDASBUY, Reg. No. 761715).

In relation to those trademarks conformed by a textual and a design the Domain Name Jurisprudence has stated:

“Panel assessment of identity or confusing similarity involves comparing the (alpha-numeric) domain name and the textual components of the relevant mark. To the extent that design (or figurative/stylized) elements would be incapable of representation in domain names, these elements are largely disregarded for purposes of assessing identity or confusing similarity under the first element. Such design elements may be taken into account in limited circumstances e.g., when the domain name comprises a spelled-out form of the relevant design element.” (see point 1.10 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“WIPO Jurisprudential Overview 3.0”).

The textual element of Complainant's trademarks MIDASBUY is the dominant portion, and no disclaimer have been done in any of the applications; it is exactly reproduced in the disputed domain name <**midasbuy.shop**> registered on **June 19, 2021**.

In relation to the TLD, it is well established by the Domain Name Jurisprudence that for the purposes of the analysis of the First UDRP Element, in this case, the gTLD “.shop”, is considered “as a standard registration requirement and as such is disregarded under the first element confusing similarity test” (see point 1.11.1 of the WIPO Jurisprudential Overview 3.0”).

Therefore, Complainant has, to the satisfaction of the Panel, shown that the disputed domain name <**midasbuy.shop**> is identical to MIDASBUY Trademarks, in which the Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

B) Rights and Legitimate Interests

In accordance with the evidence submitted before the Panel, it is undisputed that:

- (1) the Respondent is not associated, sponsored or affiliated or hasn't been authorized or licensed from the Complainant to use the Trademarks MIDASBUY in any manner, including as a domain name.
- (2) there is no evidence in Respondent's favor that could justify the selection of a Trademark as MIDASBUY, as a domain name, furthermore if the Respondent's seems to be located in Russia, a jurisdiction where Complainant's Trademark Rights have been protected.
- (3) there is no evidence that the Respondent corresponds or has become commonly known by the term "midasbuy.shop", presumably hidden through the privacy service option.
- (4) Respondent's use of the disputed domain name that resolves to a website attempting to pass off as Complainant's website and offering for sale of the Complainant's products and services, certainly doesn't comply with the "Ok! Data Test" (see point 2.8.1 of the WIPO Jurisprudential Overview 3.0).
- (5) the Respondent registered the disputed domain name on **June 19, 2021**, meaning in summary, one (1) year or more, after Complainant's acquired its Trademark Rights over the word MIDASBUY on **March 12, 2020** (EUIPO, MIDASBUY, Reg. No. 018150428) and on **June 10, 2020** (RU, MIDASBUY, Reg. No. 761715).

Therefore, to the satisfaction of the Panel, the Complainant has made out its *prima facie* case. No Response or any communication from the Respondent has been submitted. In the absence of a Response, this Panel accepts Complainant's undisputed assertions and evidence as true. Thus, the Complainant has shown that the Respondent have no rights or legitimate interests in respect of the disputed domain name (within the meaning of paragraph 4(a)(ii) of the Policy).

C) Bad Faith

According to the evidence submitted, this Panel analyses the following:

Bad Faith Registration:

The Complainant acquired its Trademark Rights at least since **March 12, 2020** (EUIPO, MIDASBUY, Reg. No. 018150428) and since **June 10, 2020** (RU, MIDASBUY, Reg. No. 761715), meaning more than a year before Respondent registered the disputed domain name on **June 19, 2021**.

The Respondent exactly reproduces Complainant's Trademark MIDASBUY in the disputed domain name, builds a website, including MIDASBUY's design trademark element, and even replicates Complainant website's *look and feel*, to sell the Complainant's products and online entertainment services, which inevitably proves that Respondent had consistent knowledge of Complainant's business and of its Trademark value and reputation at the time of the registration of the disputed domain name.

In relation to it, point 3.2.2 of the WIPO Jurisprudential Overview 3.0. states:

“Noting the near instantaneous and global reach of the Internet and search engines, and particularly in circumstances where the complainant’s mark is widely known (including in its sector) or highly specific and a respondent cannot credibly claim to have been unaware of the mark (particularly in the case of domainers), panels have been prepared to infer that the respondent knew, or have found that the respondent should have known, that its registration would be identical or confusingly similar to a complainant’s mark. Further factors including the nature of the domain name, the chosen top-level domain, any use of the domain name, or any respondent pattern, may obviate a respondent’s claim not to have been aware of the complainant’s mark.”

Through such actions, the Respondent has fallen within Paragraph 4(b)(iii) of the Policy.

Therefore, this Panel concludes that the disputed domain name has been registered in bad faith.

Bad Faith Use:

According to the evidence submitted before the Panel, the Respondent is using the disputed domain name to sell Complainant’s products and services based on its Trademarks MIDASBUY, falling into Paragraph 4(b)(iv) of the Policy.

Paragraph 4(b)(iv) of the Policy states as evidence of the use of a domain name in bad faith:

(iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your 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 your web site or location or of a product or service on your web site or location.

Additionally, the Respondent made use of a Privacy Service, which in the present case, to this Panel, it doesn’t alleviate its bad faith. (see *Fédération Internationale de Football Association (“FIFA”) v. Whois Privacy Shield Services / Winsum Wong*, WIPO Case No. D2016-2310 and point 3.6 of the WIPO Jurisprudential Overview 3.0).

Furthermore, and according to the evidence submitted by the Complainant, the Respondent named as Mysin Yurievich, has been engaged in abusive domain name registrations already. In previous decisions *Samuel Kim v. Privacy service provided by Withheld for Privacy ehf / BPW, Mysin Yurievich*, WIPO Case No. D2021-2969 (WIPO Nov. 2, 2021) and *Zenith Payments Pty Ltd v. BPW Mysin Vadim Yurievich*, WIPO Case No. D2021-3217 (WIPO Dec. 9, 2021), the Respondent looked to impersonate the Trademark Owners as well, demonstrating a pattern of abuse that confirms the Respondent’s bad faith.

Thus, this Panel has not found any conceivable good faith towards the Respondent. Therefore, this Panel concludes that, the Complainant has, to the satisfaction of the Panel, shown that the disputed domain name has been registered and is being used in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy).

6. Decision

For the above reasons, in accordance with Paragraph 4 of the Policy, Paragraph 15 of the Rules, the Panel orders that the disputed domain name <**midasbuy.shop**> be transferred to the Complainant.

A handwritten signature in blue ink, consisting of several overlapping loops and a vertical line extending downwards.

María Alejandra López G.
Sole Panelist

Dated: **November 4, 2022**