

ADMINISTRATIVE PANEL DECISION

GrabTaxi Holdings Pte. Ltd. v. Do Tien Hieu
Case No. D2023-1440

1. The Parties

The Complainant is GrabTaxi Holdings Pte. Ltd., Singapore, represented by BMVN International LLC, Viet Nam.

The Respondent is Do Tien Hieu, Viet Nam.

2. The Domain Name and Registrar

The disputed domain name <grabbinhduong.com> is registered with P.A. Viet Nam Company Limited (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on April 4, 2023. On April 4, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 6, 2023, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that the Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the "Policy" or "UDRP"), the Rules for Uniform Domain Name Dispute Resolution Policy (the "Rules"), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the "Supplemental Rules").

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on April 14, 2023. In accordance with the Rules, paragraph 5, the due date for Response was May 4, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on May 5, 2023.

The Center appointed John Swinson as the sole panelist in this matter on May 9, 2023. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant is a Singapore company that was founded in 2012. The Complainant offers software platforms and mobile applications for ride-hailing, ridesharing, food delivery, logistics services, and digital payment. In 2018, the Complainant acquired Uber's operations in Southeast Asia, including in Vietnam. In August 2022, the Complainant announced that it had reached a milestone on 10 billion rides and deliveries.

The Complainant launched the Grab ridesharing app in June 2012 in Malaysia, and expanded to other countries in Southeast Asia, including to Vietnam in 2014.

The Complainant owns trademark registrations for GRAB in both word and logo format. An example of one of the Complainant's trademark registrations is Malaysia Registration No. 2016051584 for GRAB that has a registration date of January 29, 2016.

The disputed domain name was registered on November 1, 2017. The disputed domain name includes the word element "binh duong" which is a geographical location in Vietnam, *i.e.*, Binh Du'ong province.

The Respondent did not file a Response, so little information is known about the Respondent. According to the Registrar's records, the Respondent has an address in Vietnam. In response to an email to the Complainant from the Center, what appears to be an automated email response was sent to the Center on April 14, 2023, which was in Vietnamese. According to Google Translate, this email has the heading "SAI GON URBAN ENVIRONMENTAL CONSULTING COMPANY LIMITED" and discusses septic tanks and hazardous waste.

The disputed domain name resolves to a website in Vietnamese that promotes a ridesharing or taxi service in Binh Du'ong province in Vietnam. This website includes the Complainant's trademark in the same logo format as registered and used by the Complainant.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain names.

Notably, the Complainant contends the Complainant is very well-known in Vietnam where the Respondent conducts business. The Complainant has had trademark registrations in Vietnam that were registered prior to the Respondent registering the disputed domain name. The Complainant also contends that the Respondent, who is offering the same services as the Complainant, registered and is using the disputed name to generate web-traffic from the many uses of GRAB on the Respondent's website, to confuse consumers and to profit from this confusion.

B. Respondent

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

6. Discussion and Findings

To succeed, the Complainant must demonstrate that all of the elements enumerated in paragraph 4(a) of the Policy have been satisfied, namely:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and are being used in bad faith.

The *onus* of proving these elements is on the Complainant.

Paragraph 15(a) of the Rules directs the Panel to decide the Complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable.

A. Identical or Confusingly Similar

It is well-accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

Based on the available record, the Panel finds the Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the entirety of the GRAB mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical or confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

While the addition of other terms, such as "binh duong", may bear on assessment of the second and third elements, the Panel finds the addition of such terms do not prevent a finding of confusing similarity between the disputed domain names and the marks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Based on the available record, the Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

While the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often-impossible task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the record, the Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain names. The Respondent has not rebutted Complainant's *prima facie* showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain names.

Panels have held that the use of a domain name for infringing activity (*e.g.*, the sale of counterfeit goods) can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1. See for

example *Alticor Inc. v. Domain Admin, Whois Privacy Corp.*, WIPO Case No. [D2021-4157](#) where the panel stated:

“It seems to the Panel that paragraph 4(c)(i) cannot simply apply if a business exists which has deliberately adopted a confusingly similar version of another person’s trademark as its name, otherwise the Policy would be inapplicable to all cases in which a respondent was operating a business, which is clearly not its intention. The words ‘*bona fide*’ must encompass the Respondent’s knowledge and motives in choosing the name in question – if done deliberately to trade off, or take advantage of the Complainant’s name or reputation, then the ‘*bona fide*’ requirement is not met.”

The Panel does not consider that the Respondent is using the term “grab” in a *bona fide* way but rather seek to unfairly capitalize on the Complainant’s rights. This is discussed further below in relation to the third element.

Based on the available record, the Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular but without limitation, that if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

The Panel considers that the record of this case reflects that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website 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 website or location or of a product or service on the Respondent’s website or location. Paragraph 4(b)(iv) of the Policy, and [WIPO Overview 3.0](#), section 3.1.4. See also *Federal Express Corporation v. Viet Tomtom, Viet Technology and Media Services*, WIPO Case No. [D2023-0466](#).

The Respondent’s conduct demonstrates the Respondent’s knowledge of the Complainant and the Complainant’s trademarks. The website at the disputed domain name includes the Complainant’s logo. Moreover, the Complainant is very well-known in Southeast Asia, including in Vietnam where the Respondent conducts its competing business. Although the Complainant’s trademark in Vietnam was registered after the disputed domain name was registered, the Complainant has provided evidence that it was well-known in Southeast Asia, including in Vietnam, when the disputed domain name was registered.

Based on the available record, the Panel finds the third element of the Policy has been established.

7. 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 <grabbinhduong.com> be transferred to the Complainant.

/John Swinson/

John Swinson

Sole Panelist

Date: May 23, 2023