

ADMINISTRATIVE PANEL DECISION

Whaleco Inc. and Whaleco Technology Limited v. Shen LIN
Case No. DLV2025-0001

1. The Parties

The Complainants are Whaleco Inc., United States of America (“United States”), and Whaleco Technology Limited, Ireland, represented by Whitewood Law PLLC, United States.

The Respondent is Shen LIN.

2. The Domain Name and Registrar

The disputed domain name <temu.lv> is registered with NIC (the “Registry”) through NETIM (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 11, 2025. On January 16, 2025, the Center transmitted by email to the Registry a request for registry verification in connection with the disputed domain name. On January 17, 2025, the Registry transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent (Name redacted, China) and contact information in the Complaint. The Center sent an email communication to the Complainants on January 17, 2025, providing the registrant and contact information disclosed by the Registry, and inviting the Complainants to submit an amendment to the Complaint. The Complainants filed an amendment to the Complaint on January 17, 2025.

The Center verified that the Complaint together with the amendment to the Complaint satisfied the formal requirements of the .LV Domain Name Dispute Resolution Policy (the “.LV Dispute Policy”), the Rules for .LV Domain Name Dispute Resolution Policy (the “.LV Dispute Rules”), and the WIPO Supplemental Rules for .LV Domain Name Dispute Resolution Policy (the “WIPO IvDRP Supplemental Rules”).

In accordance with the .LV Dispute Rules, paragraphs 2.1 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on January 24, 2025. In accordance with the .LV Dispute Rules, paragraph 5.1., the due date for Response was February 13, 2025. The Response was filed with the Center on February 11, 2025.

The Center appointed Ingrīda Kariņa-Bērziņa as the Panelist in this matter on February 13, 2025. 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 .LV Dispute Rules, paragraph 7.

4. Factual Background

The Complainant Whaleco Inc. is a Delaware corporation headquartered in the United States. The Complainant Whaleco Technologies Ltd is registered in Ireland. Both belong to the group of companies operating the international online shopping platform operating under the TEMU mark at the domain name <temu.com>.

The Complainants are licensees of an affiliated company, Five Bells Limited, which is registered in the British Virgin Islands, United Kingdom, and is the proprietor of numerous registrations for the TEMU mark, including the following:

- European Union (“EU”) Trademark Registration No. 018742564 for TEMU (word mark), registered on November 18, 2022, for goods and services in classes 9, 35, 38, and 42;
- United States Trademark Registration No. 7164306 for TEMU (word mark), registered on September 12, 2023, for services in class 35.

According to the information provided by the Registry, “the current registrant acquired the registration of the disputed domain name on June 15, 2024”. At the time of the Complaint and of this Decision, it redirected Internet users to the Complainant’s website at “www.temu.com”. The browser tab for this website is labeled “Temu Latvia. Explore the latest”. No further information is available about the Respondent.

5. Parties’ Contentions

A. Complainants

5.1. Procedural Issues

A. Language of Proceedings

The Complainants have requested that the language of proceedings be English.

B. Consolidation of Proceedings - Multiple Complainants

The Complainants request consolidation into a single proceeding on the basis that they are affiliated companies, and both have legal rights in the TEMU trademark and have a common grievance against the Respondent. Additionally, they have been recognized as joint parties in previous proceedings relating to domain names incorporating the TEMU trademark, such as *Whaleco Inc. and Whaleco Tehnology Limited v. Tomasz Nowak*, WIPO Case No. [DEU2024-0006](#).

5.2. Substantive Contentions

The Complainants contend that they have satisfied each of the elements required under the .LV Dispute Policy for a transfer of the disputed domain name. Notably, the Complainants contend that the TEMU.COM shopping platform was launched in the United States in September 2022 and became the most-downloaded e-commerce app, surpassing 100 million downloads on the Google Play Store. The platform operates in 70 countries around the world and offers merchandise such as clothing, consumer goods, cosmetics, appliances, and electronics. The Complainants, through their affiliate Five Bells Limited, are the exclusive licensees of the TEMU trademarks. The Complainants have expended substantial resources to market and promote the distinctive TEMU trademarks internationally.

The disputed domain name comprises the Complainant's TEMU mark in its entirety, with the mere addition of the ".lv" Top-Level Domain. There is no evidence to suggest that the Respondent is commonly known by, or has rights in, the disputed domain name. The Complainants have not permitted the Respondent to use its mark. The disputed domain name redirects to the Complainants' website at "www.temu.com". Such redirection is likely to heighten the confusion as to the origin or affiliation of the disputed domain name. The Respondent could, at any time, use the disputed domain name to benefit the Respondent in some way, if it is not already doing so.

The Complainants request the transfer of the disputed domain name.

B. Respondent

The Respondent provided the following Response:

"1. The versatility of domain names. <temu.eu>, <temu.ee>, <temu.fi>, <temu.nl>, <temu.ch>, <temu.it>, <temu.cn>, <temu.in>, <temu.us> None of the aforementioned domain names are registered to the complainant. See the attachments.

2. There are numerous trademarks present that are not owned by the complainant. See the attachments. Number IDM000802512 Number 1676448 Number 018322110."

The attachments provided by the Respondent include a screenshot of the website at "www.temu.eu", which displays images of farm animals and equipment and states that it offers "smart farming solutions". The copies of trademark registrations attached to the Response include device marks incorporating the verbal element "temu" and registered in Indonesia, the Philippines and the EU, respectively.

The referenced EU Trademark is No. 018322110 for TEMU (device mark), registered on February 19, 2021 for goods in class 7 ("shearing machines for animals; Chick brooders; fodder presses; Feed grinding machines; Fodder cutting machines [feed cutters]; Feeding machines; Feeders (Mechanized livestock -); Electronic feeders for animals; Mechanized livestock waterers"). The owner of this EU Trademark is Temu Technology (QINGDAO) Co., Ltd. of Shangdong, China.

6. Discussion and Findings

6.1. Procedural Issues

A. Language of Proceedings

The Complainants have requested that the language of proceedings be English. Under the .LV Dispute Policy and .LV Dispute Rules, the language of the proceedings are expressly regulated.

Pursuant to Paragraph 11.1 of the .LV Dispute Rules, "The language of the alternative dispute resolution proceeding shall be Latvian unless the Parties agree on English being the language of the alternative dispute resolution.

A Complainant may file a Complaint in English only if both parties (i.e. the Complainant and the Respondent) are located outside Latvia".

Complainant Whaleco Inc. is located in the United States; Complainant Whaleco Ltd is located in Ireland. The Respondent is located in China. As all parties are located outside Latvia, the Panel finds that the Complaint was properly filed in English.

Regarding the language of the ensuing proceedings, the Panel notes that the Respondent has filed its Response in English. Noting Paragraph 11.1 of the .LV Dispute Rules, and the circumstances of the case, the Panel will proceed in English.

B. Consolidation of Proceedings - Multiple Complainants

Paragraph 10.5 of the .LV Dispute Rules provides as follows:

“A Panel shall decide a request by a Party to consolidate multiple domain name disputes in accordance with the .LV Dispute Policy and these .LV Dispute Rules.”

Paragraph 4.1.6. of the .LV Dispute Policy provides as follows:

“Consolidation. In the event of multiple disputes between a domain name holder and a complainant, either the domain name holder or the complainant may submit a request to consolidate the disputes before a Panel. This petition shall be made to the Panel appointed to hear a pending dispute between the parties. The Panel may consolidate any or all such disputes at its discretion, provided that the disputes being consolidated are governed by the applicable .LV Dispute Policy.”

Paragraph 10 of the .LV Dispute Rules further provides as follows:

“10.2. In all cases, the Panel shall ensure that the Parties are treated with equality and that each Party is given a fair opportunity to present its case.

10.3. The Panel shall ensure that the alternative dispute resolution takes place with due expedition. It may, at the request of a Party or on its own motion, extend, in exceptional cases, a period of time fixed by these .LV Dispute Rules or by the Panel.”

The Complainants have requested consolidation of multiple complainants on the basis that they are licensees of the TEMU mark, which is registered by an affiliate of the Complainants. They therefore share a common grievance.

Neither the .LV Dispute Rules nor the .LV Dispute Policy expressly contemplate the possibility of a complaint filed jointly by multiple complainants. However, in prior domain name disputes decided pursuant to the Uniform Domain Name Dispute Resolution Policy (“UDRP”), a single complaint filed by more than one complainant against a single respondent may be accepted where “(i) the complainants have a specific common grievance against the respondent, or the respondent has engaged in common conduct that has affected the complainants in a similar fashion, and (ii) it would be equitable and procedurally efficient to permit the consolidation”. See section 4.11.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)).¹

Noting the parallels between the UDRP and the .LV Dispute Rules,² the Panel finds that said conditions are satisfied. The Complainants have a common legal interest, as both Complainants are licensees of Five Bells Limited, which is the holder of the TEMU EU Trade Mark registration. Moreover, considering the composition of the disputed domain name, the Panel finds that the Complainants are the target of common conduct by the Respondent, which has affected their individual legal interests in a similar fashion. The Respondent has not objected to consolidation and there is no evidence available that consolidation would contravene the principle of fair and equitable treatment of the Parties.

¹Given the similarities between the .LV Dispute Rules and .LV Dispute Policy and the UDRP, the Panel will refer to UDRP practice where instructive.

² The Panel notes that a similar approach has been adopted in cases decided under the .eu Alternative Dispute Resolution Rules (“ADR Rules”). See, for example, *Gymworld Inc. and Magformers UK Limited v. Vanbelle Jo, Vanbelle Law*, WIPO Case No. [DEU2017-0001](#).

Accordingly, the Panel accepts the consolidation of the Complainants pursuant to Paragraph 10.5 of the .LV Dispute Rules. The Complainants are hereinafter referred to as “the Complainant”.

6.2. Substantive Issues

Pursuant to paragraph 4.1.1 of the .LV Dispute Policy, in order for the Complaint to succeed, it is for Complainant to establish:

“(i) the domain name is identical or confusingly similar to:

- I. a trademark or service mark protected in Latvia in which the complainant has rights; or
- II. a geographical indication protected in Latvia or by European Union law; or
- III. a merchant’s name (firm name) as registered in the Commercial Register of Latvia; and

(i) the domain name holder has no rights or legitimate interests in respect of the domain name; and

(ii) the domain name has been registered or is being used in bad faith.”

Pursuant to paragraph 15.1 of the .LV Dispute Rules, “A Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the .LV Dispute Policy, these .LV Dispute Rules and any rules and principles of law that it deems applicable”.

Pursuant to paragraph 4.1.9 of the .LV Dispute Policy, “The remedies available to a complainant pursuant to any alternative dispute resolution proceeding before a Panel shall be limited to requiring the cancellation of domain name or the transfer of domain name registration to the complainant”.

A. Identical or Confusingly Similar

The Complainant has provided evidence establishing that it has trademark rights in the TEMU Mark through registration in the European Union. This is sufficient for the Panel to make a finding that the Complainant has rights in a trademark protected in Latvia for the purposes of standing to bring a Complaint under Paragraph 4.1.1.(i)(I) of the .LV Dispute Policy.

In comparing Complainant’s TEMU Mark with the disputed domain name, the Panel finds that the disputed domain name is identical to the TEMU Mark. Where a domain name incorporates the entirety of a trademark, the domain name will normally be considered confusingly similar to that mark.

It is well established that the country code Top-Level Domain (here, “.lv”), as a standard registration requirement, is typically ignored when assessing the similarity between a trademark and a domain name.

The Panel therefore finds that Complainant has established the first element according to Paragraph 4.1.1 of the .LV Dispute Policy.

B. Rights or Legitimate Interests

Pursuant to paragraph 4.1.3 of the .LV Dispute Policy, “Any of the following circumstances, in particular but without limitation, if found by the Panel to be proved based on its evaluation of all evidence presented, shall establish the domain name holder’s rights or legitimate interests in the domain name:

(i) use of, or demonstrable intention to use the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services, if said activities were performed before receipt of any notice of the dispute; or

(ii) domain name holder (as an individual, business, or other organization) has been commonly known by the domain name, even if domain name holder has acquired no trademark or service mark rights; or

(iii) the domain name holder is legitimately using the domain name for a bona fide purpose without intent to obtain a commercial gain, to mislead visitors or to tarnish reputation of the trademark or service mark, or geographical indication concerned".

The Complainant has established that it has no relation with the Respondent and has never authorized the Respondent to use the TEMU Mark in any way. The Panel finds that there is no evidence available to indicate that the Respondent is commonly known by the disputed domain name. The nature of the disputed domain name, which is identical to the Complainant's TEMU mark, cannot constitute fair use since it effectively impersonates or suggests sponsorship or endorsement by the trademark owner.

The disputed domain name redirects to the Complainant's own website. Such use does not support a finding of rights or legitimate interests.

The Panel finds that the Complainant has therefore established a prima facie case that the Respondent has no rights or legitimate interests in the disputed domain name.

The Respondent notes "the versatility of domain names" and lists several third-party domain names reflecting the Complainant's TEMU mark and an EU Trademark registration for TEMU also held by a third party. However, the Respondent does not provide any evidence that its activities are connected to these domain names or trademark registrations and in any event noting also the use of the disputed domain name, none of these third party uses would vest the Respondent with a claim to the disputed domain name per se. Under these circumstances, the Panel finds that third-party activities do not establish the Respondent's rights or legitimate interests in the disputed domain name. The Respondent has not provided any other relevant evidence or arguments. The Panel finds that the Respondent has therefore not rebutted any of the Complainant's contentions and has failed to demonstrate its rights or legitimate interests in the disputed domain name.

The Panel therefore finds that the Complainant has established the second element, according to Paragraph 4.1.1. of the .LV Dispute Policy.

C. Registered or Used in Bad Faith

Pursuant to Paragraph 4.1.2 of the .LV Dispute Policy, the following circumstances, in particular but without limitation, if established by the Panel, shall be evidence of the registration or use of a domain name in bad faith:

- (i) circumstances indicating that the domain name holder registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the Complainant or a competitor of that Complainant for a consideration that substantially exceeds the domain name holders' costs directly related to the domain name; or
- (ii) the domain name holder registered the domain name in order to prevent the Complainant from using it, provided that the domain name holder has engaged in a pattern of such conduct, and the conduct has affected the Complainant or other persons; or
- (iii) the domain name has been registered by the domain name holder primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the domain name, the domain name holder has attempted to attract Internet users to its website or another online venue for commercial gain by creating a likelihood of confusion with the complainant's rights.

The Panel finds that the Complainant has demonstrated the Respondent's bad faith registration and use of the disputed domain name. The Complainant has provided evidence of its rights in the TEMU mark, the registration of which predates the registration of the disputed domain name by the Respondent. The Panel also finds that that the TEMU mark has been extensively used and promoted internationally. Panels have

consistently found that the mere registration of a domain name that is identical to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith on the part of the Respondent.

The redirection of the disputed domain name to the Complainant's own website creates a real or implied threat hanging over the head of the Complainant and, as such, a continuing bad faith use of the disputed domain name.

As noted above, the Respondent states that third parties have registered domain names reflecting the Complainant's TEMU mark and an EU Trademark registration for TEMU also held by a third party. The Panel finds that there is no evidence available to indicate that these third-party rights or activities are in any way related to the Respondent. In any event, noting the redirection of the disputed domain name, the Panel finds that the Respondent has registered and is using such domain name to take advantage of its significance as a trademark owned by the Complainant.

Accordingly, the Panel finds that the Complainant has established the third element under Paragraph 4.1.1. of the .LV Dispute Policy.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4.1.9 of the .LV Dispute Policy and 15 of the .LV Dispute Rules, the Panel orders that the disputed domain name <temu.lv> be transferred to the Complainant.

/Ingrīda Kariņa-Bērziņa/
Ingrīda Kariņa-Bērziņa
Panelist
Date: February 27, 2025