

## ADMINISTRATIVE PANEL DECISION

Whaleco Inc. and Whaleco Technology Limited v. Daniel Coleman, apk  
Case No. D2025-3276

### 1. The Parties

The Complainants are Whaleco Inc. and Whaleco Technology Limited, United States of America, represented by Whitewood Law PLLC, United States of America ("United States" or "U.S.").

The Respondent is Daniel Coleman, apk, United States.

### 2. The Domain Name and Registrar

The disputed domain name <temuapk.pro> is registered with NameCheap, Inc. (the "Registrar").

### 3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on August 15, 2025. On August 15, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 15, 2025, the Registrar 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 ("Registration Private, Withheld for Privacy ehf") and contact information in the Complaint. The Center sent an email communication to the Complainants on August 18, 2025, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainants to submit an amendment to the Complaint. The Complainants filed an amended Complaint on August 20, 2025.

The Center verified that the Complaint together with the amended 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 August 21, 2025. In accordance with the Rules, paragraph 5, the due date for Response was September 10, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on September 11, 2025.

The Center appointed Joseph Simone as the sole panelist in this matter on September 16, 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 Rules, paragraph 7.

#### **4. Factual Background**

The Complainants, Whaleco Inc. and Whaleco Technology Limited, belong to the same group of companies and affiliates d/b/a TEMU and operate the TEMU marketplace in the U.S. and globally.

The Complainants operate an online shopping platform at <temu.com>, accessible through its website and mobile applications, which are available for download through the Apple App Store and Google Play Store. The website “www.temu.com” launched its business in the United States in September 2022, and quickly became one of the most downloaded e-commerce applications, surpassing 100 million downloads on the Google Play Store. It has also been one of the most downloaded free applications on both the Google Play Store and the Apple App Store. To date, the Complainants operate in over 90 different countries across the world.

The Complainants, through their affiliate Five Bells Limited, have an extensive global portfolio of trade mark registrations incorporating the TEMU mark, including the following:

- United States of America Trade Mark Registration No. 7157165 for “TEMU” in Class 9 registered on September 5, 2023;
- United States of America Trade Mark Registration No. 7329132 for “TEMU” in Class 35 registered on March 12, 2024; and
- European Union Trade Mark Registration No. 018816488 for “TEMU” in Classes 36, 39, 41 and 45 registered on April 18, 2023.

The disputed domain name was registered on March 24, 2025. The evidence provided by the Complainants further indicates that, prior to the filing of the Complaint, the disputed domain name resolved to a website featuring prominent references to the Complainants and the TEMU trade mark, offering free downloads of an unauthorized modified APK version of the official TEMU application. At the time of issuance of this Decision, the disputed domain name resolved to an error page.

#### **5. Parties’ Contentions**

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

The Complainants contend that they have satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

The Complainants contend that the disputed domain name registered by the Respondent is identical or confusingly similar to the Complainants’ TEMU trade marks, and that the term “apk” (an abbreviation for “Android Package” – an Android file format for mobile applications) and the addition of the generic Top-Level Domain (“gTLD”) “.pro” does not affect the analysis as to whether the disputed domain name is identical or confusingly similar to the Complainants’ trade marks.

The Complainants assert that they have not authorized the Respondent to use the TEMU mark, and there is no evidence to suggest that the Respondent has used, or has undertaken any demonstrable preparations to use, the disputed domain name in connection with a bona fide offering of goods or services. The Complainants further assert that the disputed domain name has been used to derive revenue at least from

website traffic generated by the “TEMU” mark through Google Ads, including advertisements related to a direct competitor of the Complainant. Moreover, the Respondent has configured MX records, suggesting preparation for potentially misleading or even fraudulent email use.

The Complainants also claim there is no evidence that the Respondent has any connection to the TEMU mark, and that there is no plausible good faith reason for the Respondent to have registered the disputed domain name. The Complainants therefore argue that the registration and any use of the disputed domain name must be in bad faith.

## **B. Respondent**

The Respondent did not reply to the Complainants’ contentions.

## **6. Discussion and Findings**

### **6.1 Preliminary Procedural Issue: Consolidation of Multiple Complainants**

The Panel notes that the present Complaint has been filed by multiple Complainants.

UDRP panels have articulated principles governing the question of whether a complaint filed by multiple complainants may be brought against one respondent. These criteria encompass situations in which (i) the complainants either 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; (ii) it would be equitable and procedurally efficient to permit the consolidation. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 4.11.

In order for the filing of a single complaint brought by multiple complainants to be accepted, the complaint would typically need to be accompanied by a request for consolidation which establishes that the relevant criteria have been met.

In the present case, the Panel is satisfied that both Complainants, through their affiliate Five Bells Limited, have rights in the TEMU mark as set out in the Factual Background heading above. The Panel notes the Complainants’ assertion that they have been collectively affected by the Respondent’s conduct, and that as there is a common grievance on the part of each of them in a single disputed domain name, and given the almost identical facts, it would be procedurally efficient to deal with all matters in a consolidated proceeding.

The Panel finds that the Complainants have established that they have a common grievance against the Respondent, which would affect their individual rights on substantially the same basis. The Respondent has not indicated that it would suffer any prejudice from consolidation of the complainants, and no potential prejudice is apparent to the Panel. The Respondent has not otherwise contested the request for consolidation.

Accordingly, the Panel considers it procedurally efficient to allow the Complainants to proceed with the single Complaint as filed and believes that consolidation is fair and equitable to all of the Parties.

## **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 Complainants’ trade mark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

The Panel acknowledges that the Complainants have established rights in the TEMU trade mark in multiple jurisdictions around the world. [WIPO Overview 3.0](#), section 1.2.1.

Disregarding the gTLD “.pro”, the Panel finds the Complainants’ TEMU mark is recognizable within the disputed domain name. The inclusion of the additional term “apk” – a known abbreviation for “Android Package” and an Android file format for mobile applications – does not prevent a finding of confusing similarity. [WIPO Overview 3.0](#), sections 1.7, 1.8 and 1.11.1.

The Panel therefore finds that the Complainants have satisfied the requirements of paragraph 4(a)(i) of the Policy in establishing their rights in the TEMU trade mark and in showing that the disputed domain name is confusingly similar to their mark.

## **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.

Although 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 difficult 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 (although the burden of proof always remains on the complainant). 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.

In this case, the Complainants assert that they have not authorized the Respondent to use their trade mark and there is no evidence to suggest that the Respondent has used, or undertaken any demonstrable preparations to use, the disputed domain name in connection with a bona fide offering of goods or services. Having reviewed the available record, the Panel finds that the Complainants have established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name.

The Respondent did not file a response and has therefore failed to assert factors or put forth evidence to establish that it enjoys rights or legitimate interests in the disputed domain name. Meanwhile, no evidence has been provided to demonstrate that the Respondent, prior to the notice of the dispute, had used or demonstrated its preparation to use the disputed domain name in connection with a bona fide offering of goods or services.

There is also no evidence to show that the Respondent has been commonly known by the disputed domain name or that the Respondent is making a legitimate noncommercial or fair use of the disputed domain name.

As such, the Panel concludes that the Respondent has failed to rebut the Complainants’ *prima facie* showing of the Respondent’s lack of rights or legitimate interests in the disputed domain name, and that none of the circumstances of paragraph 4(c) of the Policy is applicable in this case.

Accordingly, and based on the Panel’s findings below, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name pursuant to paragraph 4(a)(ii) of the Policy.

## **C. Registered and Used in Bad Faith**

The third and final element that a complainant must prove is that the respondent has registered and is using the disputed domain name in bad faith.

Paragraph 4(b) of the Policy states that any of the following circumstances, in particular but without limitation, shall be considered as evidence of the registration and use of a domain name in bad faith:

- (i) circumstances indicating that the respondent registered or acquired the domain name primarily for the

purpose of selling, renting, or otherwise transferring the domain name registration to the complainant (the owner of the trade mark or service mark) or to a competitor of that complainant, for valuable consideration in excess of the respondent's documented out-of-pocket costs directly related to the domain name; or

(ii) circumstances indicating that the respondent registered the domain name in order to prevent the owner of the trade mark 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) circumstances indicating that the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) circumstances indicating that the respondent is using the domain name to intentionally attempt to attract, for commercial gain, Internet users to its website or other online 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 its website or location.

The examples of bad faith registration and use set forth in paragraph 4(b) of the Policy are not meant to be exhaustive of all circumstances in which bad faith may be found. Other circumstances may also be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

For reasons discussed under this and the preceding heading, the Panel believes that the Respondent's conduct in this case constitutes bad faith registration and use of the disputed domain name.

When the Respondent registered the disputed domain name, the TEMU trade marks were already widely known and directly associated with the Complainants' activities. The Complainants' registered trade mark rights in TEMU for its products and services predate the registration date of the disputed domain name. A simple online search for the term "temu" would have revealed that it is an established brand. [WIPO Overview 3.0](#), section 3.2.2.

Moreover, the term "apk" is an abbreviation for "Android Package" – an Android file format for mobile applications. Thus, the Respondent must have known of the Complainants' marks at the time of registering the disputed domain name. UDRP panels have consistently found that the mere registration of a domain name that is confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trade mark by an unaffiliated entity can by itself create a presumption of bad faith. See [WIPO Overview 3.0](#), section 3.1.4. The Panel further finds that the Respondent's earlier use of the website to promote and offer free download of an unauthorized, modified APK version of TEMU application indicates a clear awareness of the Complainants and TEMU trademarks and creates a risk of implied affiliation or association with the Complainants.

Furthermore, the Complainants have provided evidence that MX servers associated with the disputed domain name have been configured to allow email to be sent from the disputed domain name, thereby potentially enabling the Respondent to mislead or deceive potential recipients. This presents an implied ongoing threat to the Complainant and further supports a finding of bad faith.

Accordingly, the Panel finds that the Respondent has registered and used the disputed domain name pursuant to paragraph 4(a)(iii) of the Policy.

## 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 <temuapk.pro> be transferred to the Complainant.

*/Joseph Simone/*  
**Joseph Simone**  
Sole Panelist  
Date: September 30, 2025