

ADMINISTRATIVE PANEL DECISION

Whaleco Inc. and Whaleco Technology Limited v. Wen Lijun, Lijun Wen
Case No. DPH2025-0001

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 Wen Lijun, Lijun Wen, China.

2. The Domain Name and Registrar

The disputed domain name <temu.ph> is registered with DotPH (the “Registry”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 30, 2025. On January 30, 2025, the Center transmitted by email to the Registry a request for registrar verification in connection with the disputed domain name. On January 31, 2025, the Registry 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 sent an email communication to the Complainant on February 7, 2025, requesting the Complainant to amend the mutual jurisdiction in the Complaint. The Complainant filed an amended Complaint on February 8, 2025.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the .PH Uniform Domain Name Dispute Resolution Policy (“phDRP” or the “.PH Policy”), the Rules for .PH Uniform Dispute Resolution Implementation Rules (the “Rules”), and the WIPO Supplemental Rules (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2(a) and 4(a), the Center formally notified the Respondent of the Complaint, and the proceedings commenced on February 11, 2025. In accordance with the Rules, paragraph 5(a), the due date for Response was March 3, 2025. The Respondent did not file a response. Accordingly, the Center notified the Respondent’s default on March 4, 2025.

The Center appointed Kaya Köklü as the sole panelist in this matter on March 12, 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 are Whaleco Inc. from Delaware headquartered in the United States (“First Complainant”) and its affiliated company Whaleco Technologies Limited is registered in Ireland (“Second Complainant”). Both belong to the group of companies that is operating an internationally popular online shopping platform.

Both Complainants are authorized licensees of the TEMU trademark, which is owned by another affiliated company, namely Five Bells Limited, which is registered in the British Virgin Islands, United Kingdom. Among many others, the Complainants are the exclusive licensees of the United States Trademark Registration No. 7,164,306, registered on September 12, 2023 (filed on August 10, 2022), for TEMU, claiming first use in commerce on September 1, 2022, and covering various services as protected in class 35.

The online shopping platform of the Complainants is operated at the domain name <temu.com>.

The Respondent is reportedly located in China.

The disputed domain name was registered on August 30, 2022.

According to the case file, the disputed domain name has so far not been actively used and does not resolve to an active website.

5. Parties’ Contentions

A. Complainants

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

B. Respondent

The Respondent did not reply to the Complainants’ contentions.

6. Discussion and Findings

6.1. Consolidation of multiple Complainants

In the present case, the Complaint was filed by two separate Complainants. While the .PH Policy and Rules¹ do not directly contemplate the consolidation of multiple complainants in a single administrative Complaint, numerous panels have found that in certain circumstances such a consolidation may be permitted.

In assessing whether a complaint filed by multiple complainants may be brought against a single respondent, panels look at whether (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 WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”)).

¹ Given the similarities between the .PH Policy and Rules on the one hand, and the Uniform Domain Name Dispute Resolution Policy (“UDRP”) and associated rules on the other hand, the Panel considers some UDRP precedents as well as the applicable sections of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), relevant to the present proceeding and will refer to them where appropriate.

Taking into consideration that the Respondent has not rebutted the requested consolidation, the Panel finds that the Complainants have established a prima facie case that the Complaint can be consolidated based on a common grievance and interest of both Complainants, in particular as the First Complainant is an affiliated company of the Second Complainant, and both Complainants use the TEMU trademark as licensees for operating their online shopping platform.

The Panel is convinced that it is fair and equitable in the circumstances of the case to order the consolidation as requested.

Consequently, the Panel accepts the First and Second Complainants in this administrative proceeding and, for the ease of reference, will jointly refer to them as “the Complainant” in the following, whenever appropriate.

6.2. Substantive Issues

In accordance with paragraph 4(a) of the .PH Policy, the Complainant must prove that each of the three following elements is satisfied:

- (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 is being used in bad faith.

Paragraph 4(a) of the .PH Policy states that the Complainant bears the burden of proving that all these requirements are fulfilled, even if the Respondent has not replied to the Complainant’s contentions. *Stanworth Development Limited v. E Net Marketing Ltd.*, WIPO Case No. [D2007-1228](#).

However, concerning the uncontested information provided by the Complainant, the Panel may, where relevant, accept the provided reasonable factual allegations in the Complaint as true. See section 4.3 of the [WIPO Overview 3.0](#).

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’ trademark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

Based on the case record, the Complainant has shown rights in respect of the TEMU mark for the purposes of the .PH Policy. According to the undisputed evidence provided by the Complainant, it is the exclusive licensee of various TEMU trademarks owned by the company Five Bells Limited. An exclusive trademark licensee is considered to have rights in a trademark for purposes of standing to file a complaint ([WIPO Overview 3.0](#), section 1.4).

It is further noted that the entirety of the TEMU mark is reproduced within the disputed domain name, without any amendments or additions. Accordingly, the disputed domain name is identical to the TEMU mark for the purposes of the .PH Policy.

The Panel finds the first element of the .PH Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(b) of the .PH 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, and similarly in .PH dispute resolution 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.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant’s prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the .PH Policy or otherwise.

The disputed domain name does not resolve to an active website and there is particularly no indication in the case file that the Respondent is commonly known by the disputed domain name, nor that there are any circumstances or activities that would establish the Respondent’s rights or legitimate interests therein.

Bearing in mind that the disputed domain name is identical to the TEMU trademark and, hence, carries a high risk of affiliation, the Panel finds that the facts and circumstances of the case do not support a finding of rights or legitimate interests by the Respondent.

Based on the available record, the Panel finds the second element of the .PH 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 .PH Policy, paragraph 4(a)(i)-(iv) of the .PH 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.

Paragraph 4(a)(i)-(iv) of the .PH Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent’s registration and use of a domain name is in bad faith.

In the present case, the Panel finds that the Respondent must have had the TEMU trademark in mind when registering the disputed domain name, particularly considering the inherently misleading composition of the disputed domain name, which comprises the Complainant’s TEMU mark in its entirety without any additions. The Panel further notes that the timing of the registration of the disputed domain name pretty much coincides with the application for the TEMU trademark and its launch of use. As this is presumably no coincidence, the Panel believes that the Respondent has deliberately chosen the disputed domain name to target the Complainant.

With respect to the use of the disputed domain name in bad faith, as already indicated before, the disputed domain name has apparently yet not been linked to an active website.

Panels have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. While panelists will look at the totality of the circumstances in each case, factors

that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put. [WIPO Overview 3.0](#), section 3.3.

Having reviewed the record, the Panel notes the distinctiveness of the TEMU trademark, and the inherently misleading nature of the disputed domain name and finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under the .PH Policy. Even more, the Panel is convinced that this is a typical cybersquatting case, which the .PH Policy was designed to stop.

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

7. Decision

For all the foregoing reasons, in accordance with paragraphs 4(h) of the .PH Policy and 15 of the Rules, the Panel orders that the disputed domain name <temu.ph> be transferred to the Complainant.

/Kaya Köklü/

Kaya Köklü

Sole Panelist

Date: March 25, 2025