

## **ADMINISTRATIVE PANEL DECISION**

Whaleco Inc., Whaleco Technology Limited v. Wen Lijun, Lijun Wen  
Case No. DQA2025-0001

### **1. The Parties**

The Complainants are Whaleco Inc., United States of America (“United States”) and Whaleco Technology Limited, Ireland, both 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.qa> is registered with Q Host Technologies (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 22, 2025. On January 22, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 30, 2025, 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 Qatar Domains Registry Domain Name Dispute Resolution Policy (the “Policy”), the Rules for Qatar Domains Registry Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Qatar Domains Registry Domain Name Dispute Resolution Policy (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 12, 2025. In accordance with the Rules, paragraph 5(a), the due date for Response was March 4, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 11, 2025.

Due to an apparent issue with the notification, on March 13, 2025, the Center granted the Respondent until March 18, 2025, to indicate whether it wishes to participate to this proceeding. The Respondent did not submit any response.

The Center appointed Karen Fong as the sole panelist in this matter on March 25, 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 both part of the same group of companies and affiliates d/b/a TEMU and affiliated entities under common control (hereafter referred to as the “Complainant”). The Complainant operates an online shopping platform accessible through its website available at “www temu.com” and mobile applications available for free to download through the Apple App Store and the Google Play Store. The platform was launched in the United States in September 2022. Its rapid rise is credited to its innovative ecommerce combination of online shopping and entertainment known as “discovery-based shopping”. It is an online marketplace that connects consumers with sellers, manufacturers, and brands around the world.

The Complainant is the exclusive licensee of various trade mark registrations comprising the word TEMU, which are owned by Five Bells Limited. These trade marks include the following:

- United States Trade Mark Registration No 7164306 for TEMU registered on September 12, 2023 (filing date: August 10, 2022, citing first use in commerce: September 1, 2022).
- United States Trade Mark Registration No 7157165 for TEMU registered on September 5, 2023 (filing date: August 10, 2022, citing first use in commerce: September 1, 2022).
- United States Trade Mark Registration No 7329132 for temu registered on March 12, 2024 (filing date: August 10, 2022, citing first use in commerce: September 1, 2022).

(individually and collectively the “Trade Mark”).

The Respondent, who appears to be based in China registered the disputed domain name on August 29, 2022. The disputed domain name resolves to an inactive webpage. The Complainant and the Respondent have been involved in a previous UDRP proceeding in relation to the domain name <temu.ro> which resulted in a transfer to the Complainant. (*Whaleco Inc. d/b/a Temu v. Lijun Wen* WIPO Case No. [DRO2024-0003](#)).

#### **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 name.

Notably, the Complainant contends that the disputed domain name is confusingly similar to the Trade Mark in which it has rights, that the Respondent has no rights or legitimate interests with respect to the disputed domain name, and that the disputed domain name was registered and is being used in bad faith.

##### **B. Respondent**

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

#### **6. Discussion and Findings**

##### **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 identity or confusing similarity involves a reasoned but relatively straightforward

comparison between the Complainant's Trade Mark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7<sup>1</sup>.

The Complainant has shown rights in respect of a trade mark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the Trade Mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical to the Trade Mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

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

## **B. Rights or Legitimate Interests**

Paragraph 3(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 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 Policy or otherwise.

Moreover, the nature of the disputed domain name is inherently misleading as it effectively impersonates or suggests sponsorship or endorsement by the Complainant. [WIPO Overview 3.0](#), section 2.5.1. It is almost identical to the Complainant's active domain name. The sole difference between the Complainant's own domain name which it uses as its website are their respective Top Level Domains (".com" and ".qa").

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

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

The Panel notes that, for the purposes of paragraph 3(a)(iii) of the Policy, paragraph 3(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.

In the present case, the Panel notes that the Respondent knew or should have known that the disputed domain name consisted of the Complainant's Trade Mark when it registered the disputed domain name. This is underlined by the fact that the disputed domain name is identical to Trade Mark and was registered shortly after the filing of the Complainant's trade mark applications in the United States, indicating an intent to target the Complainant's nascent trade mark rights.

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<sup>1</sup> In light of the substantive and procedural similarities between the qaDRP and the Uniform Domain Name Dispute Resolution Policy ("UDRP"), the Panel has cited decisions under the UDRP and the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), where appropriate.

The Panel also notes that the disputed domain name is inactive. Paragraph 3(b) of the 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. [WIPO Overview 3.0](#), section 3.2.1.

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. Having reviewed the available record, the Panel finds the non-use of the disputed domain name does not prevent a finding of bad faith in the circumstances of this proceeding. Although 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 available record, the Panel notes the distinctiveness or reputation of the Trade Mark, the composition of the disputed domain name, the lack of Response from the Respondent 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 Policy.

Further, the Panel also notes that the Respondent has been part of a UDRP case concerning the Complainant which resulted in that domain name being ordered to be transferred (see section 4 above). UDRP panels have held that establishing a pattern of bad faith conduct requires more than one, but as few as two instances of abusive domain name registration. The fact that this is the second abusive registration involving the Complainant is a further indication that the Respondent was targeting the Complainant and may be considered a cybersquatter and is engaged in a pattern of bad faith conduct which is an example of bad faith contained in paragraph 3(b)(ii) of the Policy ([WIPO Overview 3.0](#), section 3.1.2).

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 paragraph 3(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name <temu.qa> be transferred to the Complainant.

*/Karen Fong/*

Karen Fong

Sole Panelist

Date: April 8, 2025