

## **ADMINISTRATIVE PANEL DECISION**

### **GrabTaxi Holdings Pte. Ltd. v. Nguyen Van Trang Case No. D2023-1446**

#### **1. The Parties**

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

The Respondent is Nguyen Van Trang, Viet Nam.

#### **2. The Domain Name and Registrar**

The disputed domain name <grabgiarebinhduong.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 5, 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 12, 2023.

The Center appointed Taras Kyslyy as the sole panelist in this matter on May 31, 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 company incorporated in Singapore, which is the intellectual property holding entity of the Southeast Asia's leading technology company group headquartered in Singapore. The Complainant offers software platforms and mobile applications for, among other services, ride-hailing, ride-sharing, food delivery, logistics services, and digital payment. This includes the mobile application named "Grab". Since October 2013, it has had a strong presence in Singapore and Malaysia, and its goods and services are also offered in neighboring Southeast Asian nations such as Viet Nam, Indonesia, Thailand, the Philippines, Myanmar, and Cambodia. As of January 2023, the Complainant has offered its goods and services in more than 480 cities across 8 countries in Southeast Asia.

The Complainant owns several registrations for its GRAB trademark, including for instance Vietnamese trademark registration No.4-0318225-000, registered on April 16, 2019.

The disputed domain name was registered on December 3, 2020 and resolved to a website in Vietnamese language prominently featuring the Complainant's trademark and offering services similar to the Complainant's. At the time of the decision, the disputed domain name does not resolve to any active website.

#### 5. Parties' Contentions

##### A. Complainant

The disputed domain name is identical or confusingly similar to the Complainant's trademark. The disputed domain name incorporates the entirety of the Complainant's trademark as its dominant element which compels the attention of potential customers. Another element in the disputed domain name is "giare", which is a Vietnamese term "giá rẻ" meaning "cheap price" in English. This word should be deemed descriptive of the transportation booking services offered on the website at the disputed domain name and also the services under the Complainant's trademark. This element is not sufficient to make the disputed domain name distinguishable from the Complainant's trademark. Instead, the Respondent's use of the disputed domain name consisting of a descriptive element added to the Complainant's trademark is likely to give rise to confusion because it points to a field of services in which the Complainant's trademark is actually used. Furthermore, the disputed domain name includes the word element "binhduong" - which is a geographical location in Viet Nam (*i.e.*, Binh Duong Province). The addition of the geographical term "binhduong" is not suffice to prevent the confusing similarity between the disputed domain name and the Complainant's trademark. In fact, given that the Complainant also provides its services in Binh Duong Province, Vietnam, the confusing similarity between the disputed domain name and Complainant's trademark is increased, as it may suggest that the disputed domain name resolves to the official website of a subsidiary of the Complainant in that specific location. The remaining element ".com" of the disputed domain name only serves to indicate the type and code level of the disputed domain name, and thus, does not help dispel Internet users' confusion.

The Respondent has no rights or legitimate interests in the disputed domain name. According to the Whois record, the Respondent registered the disputed domain name after the dates of registration of the Complainant's trademarks. After over 10 years of extensive use, the Complainant's trademarks have acquired significant recognition in many countries worldwide and especially in Viet Nam, where the Respondent is reportedly located. The Complainant's trademark is not a term commonly used in the English language for the Complainant's services. The Complainant and the Respondent have no prior official connection, and the Respondent has not been authorized by the Complainant to use its trademark within the context of the disputed domain name. The Complainant confirms that the Respondent is not contracted by or otherwise affiliated with the Complainant, and the Complainant has never licensed or authorized the Respondent to use the trademark in any manners. There is also no evidence that the Respondent has become commonly known by reference to the disputed domain name. It is, therefore, impossible to conceive of any circumstances in which the Respondent would use the disputed domain name, except in a deliberate

attempt to take advantage of the Complainant's trademark for commercial gain. There is no record showing that the Respondent has ever established rights or legitimate interests in any domain name, trademark or trade name incorporating or is similar to the Complainant's trademark. The website at the disputed domain name fails to accurately represent that the Respondent is an independent business entity and that there is no relationship between the Complainant and the Respondent, nor be there authorization for the Respondent to use the Complainant's registered trademark in the URL. In contrast, it even claimed itself as "GRAB BINH DUONG - GRAB XE MAY - GRAB O TO - GRAB FOOD" in the introduction and service offerings to customers on the website to which the disputed domain name resolves. Such false reference and deliberate use with the intention to create an undue association between the Complainant and the Respondent clearly establish that the Respondent is not using the disputed domain name for a *bona fide* offering of goods or services, but is attempting to use the Complainant's trademark and the disputed domain name to redirect consumers to the Respondent's website for commercial gain.

The disputed domain name was registered and is being used in bad faith. The Respondent's choice of the disputed domain name was not a coincidence, but rather an act of bad faith. Although the "grab" word has a common meaning in English (*i.e.*, to take hold of something or someone suddenly and roughly), but it has been lawfully registered and used for unrelated goods or services by the Complainant and its licensees. The Complainant's trademark, therefore, has been perceived by the public as distinctive and highly associated with the mobile super-app and platform to connect consumers with drivers and merchants for services such as transportation (ride bookings, ride-hailing, ride-sharing), logistics, food delivery, etc. The Respondent's bad faith in the registration of the disputed domain name is established by the fact that the disputed domain name wholly and purposefully incorporates the Complainant's well-known and prior-registered trademark, and was registered by the Respondent long after the Complainant's trademark became widely known to consumers and the relevant trade. Given the high level of fame and well-established wholesome reputation that the Complainant enjoys globally, the Respondent must have had prior knowledge of the Complainant's trademark before registering the disputed domain name many years after the Complainant's trademarks were first registered and used in the world and in Viet Nam. Awareness of another's rights in a mark or domain name at the time of registration is evidence of bad faith registration. The Respondent has been using the disputed domain name in bad faith for commercial gain and to profit from the resulting consumer confusion that the disputed domain name is somewhat connected with the Complainant and/or that the Respondent and the website at the disputed domain name are connected to, associated with or endorsed by the Complainant. The Respondent has been offering the exact same services (*i.e.*, transportation including ride bookings, ride-hailing, ride-sharing) as those that the Complainant has been providing to customers worldwide, while the Respondent is not the Complainant's authorized agent to offer such services in Vietnamese market or use the Complainant's trademarks in any manner. While providing the above services, the Respondent even used the Complainant's trademark and trade name on the website under the disputed domain name without the Complainant's authorization. This is undoubtedly an attempt to attract internet users to the Respondent's website for commercial gain. After seeing the Complainant's trademark as (i) a dominant constituent element of the disputed domain name and (ii) a prominent element on the related website, a consumer will initially be confused as to the disputed domain name's association with or sponsorship by the Complainant. Such initial confusion is enough to demonstrate bad faith. It is noticeable that the Respondent named itself as "Grab Binh Duong – Grab Xe Máy – Grab Ô Tô – Grab Food" (In English: "Grab Binh Duong – Grab Motorcycle – Grab Car – Grab Food") which includes the word "Grab" in every service name that the Respondent offers. This is to divert the internet traffic to the Respondent's website.

## **B. Respondent**

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

## 6. Discussion and Findings

### A. Identical or Confusingly Similar

According to section 1.11.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (the "[WIPO Overview 3.0](#)") the applicable generic Top-Level Domain ("gTLD") in a domain name (e.g., ".com", ".club", ".nyc") is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test. Thus, the Panel disregards gTLD ".com" for the purposes of the confusing similarity test.

According to section 1.7 of the [WIPO Overview 3.0](#), in cases where a domain name incorporates the entirety of a trademark the domain name will normally be considered identical or confusingly similar to that mark for purposes of UDRP standing. The Panel finds that in the present case the disputed domain name incorporates the entirety of the Complainant's trademark.

According to section 1.8 of the [WIPO Overview 3.0](#), where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element. The Panel finds that the addition of terms "giare", "binh", and "duong" does not prevent finding of confusing similarity of the disputed domain name to the Complainant's trademark.

Considering the above the Panel finds the disputed domain name is confusingly similar to the Complainant's trademark, therefore, the Complainant has established its case under paragraph 4(a)(i) of the Policy.

### B. Rights or Legitimate Interests

The Complainant has established *prima facie* that the Respondent has no rights or legitimate interests in the disputed domain name.

Furthermore, the Respondent provided no evidence that it holds rights or legitimate interests in the disputed domain name.

The available evidence does not confirm that the Respondent is commonly known by the disputed domain name, which could demonstrate its rights or legitimate interests (see, e.g., *World Natural Bodybuilding Federation, Inc. v. Daniel Jones, TheDotCafe*, WIPO Case No. [D2008-0642](#)).

The Complainant did not license or otherwise agree for use of its prior registered trademarks by the Respondent, thus no actual or contemplated *bona fide* or legitimate use of the disputed domain name could be reasonably claimed (see, e.g., *Sportswear Company S.P.A. v. Tang Hong*, WIPO Case No. [D2014-1875](#)).

The disputed domain name used to resolve Internet users to a website with a logo similar to the Complainant's and offering services similar to the Complainant's to make the Internet users believe that they actually accessed the website owned or authorized by the Complainant. Past UDRP panels confirmed that such impersonation does not confer rights or legitimate interests on a respondent in a disputed domain name (see *Daniel C. Marino, Jr. v. Video Images Productions, et al.*, WIPO Case No. [D2000-0598](#); *Houghton Mifflin Co. v. Weatherman, Inc.*, WIPO Case No. [D2001-0211](#)).

The Respondent's use of the confusingly similar disputed domain name for a website offering overlapping services is neither a *bona fide* offering of goods or services, nor a legitimate noncommercial or fair use pursuant to the Policy (see, e.g., *Option One Mortgage Corporation v. Option One Lending*, WIPO Case No. [D2004-1052](#)).

Considering the above the Panel finds the Respondent does not have rights or legitimate interests in the disputed domain name. Therefore, the Complainant has established its case under paragraph 4(a)(ii) of the Policy.

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

According to section 3.2.2 of the [WIPO Overview 3.0](#), noting the near instantaneous and global reach of the Internet and search engines, and particularly in circumstances where the complainant's mark is widely known (including in its sector) or highly specific and a respondent cannot credibly claim to have been unaware of the mark (particularly in the case of domainers), panels have been prepared to infer that the respondent knew, or have found that the respondent should have known, that its registration would be identical or confusingly similar to a complainant's mark. Further factors including the nature of the domain name, the chosen Top-Level Domain ("TLD"), any use of the domain name, or any respondent pattern, may obviate a respondent's claim not to have been aware of the complainant's mark. The Panel finds that use of the disputed domain name confusingly similar to the Complainant's distinctive trademark for offering services overlapping with the Complainant's and targeting the location where the Complainant provides its services confirms the Respondent knew and targeted the Complainant and its trademark when registering the disputed domain name, which is bad faith.

According to paragraph 4(b)(iv) of the Policy the following circumstances, in particular but without limitation, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith: by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your 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 your website or location or of a product or service on your website or location. In this case, the disputed domain name was resolving to a website featuring the Complainant's trademark and falsely pretended to be the Complainant's local website to intentionally attract Internet users by creating likelihood of confusion with the Complainant's trademark as to the source of the website and its products. The Panel finds the above confirms the disputed domain name was registered and used in bad faith.

Although at the time of this decision the disputed domain name resolves to inactive webpage, its previous bad faith use and lack of explanation of possible good faith use from the Respondent makes any good faith use of the disputed domain name implausible. Thus, the current passive holding of the disputed domain name does not prevent a finding of bad faith (see section 3.3 of the [WIPO Overview 3.0](#)).

Considering the above the Panel finds the disputed domain name was registered and is being used in bad faith. Therefore, the Complainant has established its case under 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 <grabgiarebinhduong.com> be transferred to the Complainant.

*/Taras Kyslyy/*

**Taras Kyslyy**

Sole Panelist

Date: June 14, 2023