

## **ADMINISTRATIVE PANEL DECISION**

Grabtaxi holdings pte. Ltd v. Hoang Xuan Quynh  
Case No. D2023-1917

### **1. The Parties**

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

The Respondent is Hoang Xuan Quynh, Viet Nam.

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

The disputed domain name <taxigrabgiare.com> is registered with Nhan Hoa Software Company Ltd. (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on April 28, 2023. On April 28, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 3, 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 sent an email communication in English and Vietnamese to the parties on May 8, 2023, regarding the language of the proceeding, as the Complaint has been submitted in English and the language of the registration agreement for the disputed domain name is Vietnamese. The Complainant sent an email to the Center requesting English to be the language of the proceeding on May 9, 2023. The Respondent did not comment on the language of the proceeding.

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 May 19, 2023. In accordance with the Rules, paragraph 5, the due date for Response was June 8, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on June 9, 2023.

The Center appointed Andrew D. S. Lothian as the sole panelist in this matter on June 14, 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 in 2013, and is the intellectual property holding entity of a corporate group that offers software platforms and mobile applications for ride-hailing and ride sharing, among others, together with a mobile application named “Grab” (the “app”). The group operates in more than 480 cities across Singapore, Malaysia, Viet Nam, Indonesia, Thailand, the Philippines, Myanmar, and Cambodia. The Complainant’s app connects millions of consumers with drivers and merchants and launched in June 2012, expanding to Viet Nam in the first half of 2014. On March 26, 2018, the Complainant announced the acquisition of Uber’s operations in Southeast Asia, including Viet Nam. Uber’s ridesharing and food delivery business in the region has been integrated into the Complainant’s platform. On August 8, 2022, the Complainant announced that it had hit a milestone of 10 billion rides and deliveries.

The Complainant has received multiple international, national and regional awards in respect of its business, including being ranked the Top Transportation Company and Second Overall on Fast Company’s Most Innovative Companies List for 2019. In Viet Nam specifically, the Complainant won PC World Viet Nam’s Best ICT Products Award 2017 - Mobile App category.

The Complainant is the owner of the GRAB trademark in a wide variety of countries. In Viet Nam, where the Respondent is based, the Complainant owns (among others) International Registered Trademark No. 1213411 for the mark GRABTAXI, designated in respect of several territories including Viet Nam, registered on May 20, 2014 in Class 39, and Viet Nam Registered Trademark No. 40318225000 for the mark GRAB, registered on April 16, 2019 in Classes 9, 38 and 39.

The disputed domain name was registered on December 7, 2020. Little is known of the Respondent other than that it appears to be based in Ho Chi Minh City, Viet Nam. The website associated with the disputed domain name offers transportation services in Viet Nam, in competition with the Complainant’s business.

#### **5. Parties’ Contentions**

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

In summary, the Complainant contends as follows:

Identical or confusingly similar

The disputed domain name incorporates the entirety of the GRAB trademark as its dominant element along with the words “taxi” and “giare”. The latter word means “cheap price” in Vietnamese. The additional elements are not sufficient to make the disputed domain name distinguishable from the Complainant’s trademark. The applicable Top Level Domain (“TLD”) in a domain name is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test.

Rights or legitimate interests

The consensus is that the burden of proof is shifted on to the Respondent to come forward with evidence of a right to or a legitimate interest in the disputed domain name, once the Complainant has made a *prima facie* case showing that the Respondent lacks rights or legitimate interests.

The disputed domain name was registered long after the Complainant's trademarks, which have acquired significant recognition, especially in Viet Nam. The GRAB mark is not a term commonly used to describe the Complainant's services. The Complainant and the Respondent have no prior official connection. The Respondent has not been licensed or otherwise authorized by the Complainant to use its mark in the disputed domain name and is not contracted to or otherwise affiliated with it. There is no evidence that the Respondent has become commonly known by reference to the disputed domain name, and it is 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 established a right or legitimate interest in any domain name, trademark or trade name similar to the Complainant's GRAB mark. On the website associated with the disputed domain name, the Respondent fails to represent accurately that there is no relationship between the Parties or authorization from the Complainant, yet the Respondent refers to itself as "Grab Taxi Binh Duong" in the introduction and contact section. This false reference and intention to create an undue association between the Parties establishes that the Respondent is not making a *bona fide* offering of goods or services but uses the GRAB trademark and the disputed domain name to redirect consumers to the Respondent's website for commercial gain. Given the strong reputation of the Complainant's GRAB trademark, it is plain that the Respondent did not register the disputed domain name for any legitimate purpose.

#### Registered and used in bad faith

The Respondent's choice of domain name was not a coincidence, but rather an act of bad faith. The Complainant's mark has been perceived by the public as distinctive and associated with the Complainant's app. The disputed domain name wholly and purposefully incorporates the Complainant's mark and was registered after said mark became widely known. Given the high level of fame enjoyed by said mark, the Respondent must have had prior knowledge of it before it registered the disputed domain name.

The Respondent has used the disputed domain name in bad faith for commercial gain to profit from the resulting consumer confusion. The Respondent offered the exact same services, including ride bookings, ride-hailing, and ride sharing, as those the Complainant has provided to customers worldwide, yet the Respondent has no authorization from the Complainant to do so. The Respondent uses the Complainant's trademark and tradename with all its services, from the service names to the descriptions of those services. This is undoubtedly an attempt to attract Internet users to the Respondent's website for commercial gain as after seeing the GRAB trademark in the disputed domain name and on the associated website, a consumer will be confused as to the disputed domain name's association with or sponsorship by the Complainant.

#### **B. Respondent**

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

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

To succeed, the Complainant must demonstrate that all of the elements listed in paragraph 4(a) of the Policy have been satisfied:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (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.

### **A. Preliminary Matter: Language of the Proceedings**

Paragraph 11(a) of the Rules provides that unless otherwise agreed by the Parties or specified otherwise in the Registration Agreement, the language of the administrative proceeding shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding.

The Registrar has confirmed that the language of the Registration Agreement is Vietnamese. However, the Complainant submits that the language of the proceeding should be English for the following reasons, namely (i) the website under the disputed domain name displays various content and terms in English, including “hotline”, “email”, “website”, “copyright”, and “taxi”; (ii) the services offered relate to the Complainant, which is a non-Vietnamese entity, suggesting that the Respondent is familiar with using English in communications; and (iii) a requirement to translate the Complaint into Vietnamese would result in delay and considerable and unnecessary expense because the Respondent may be familiar with using English in communications.

Having reviewed these representations and considered the circumstances of the administrative proceeding, the Panel determines that the language of the proceedings shall be English for the following reasons: (i) the Complainant has made a corresponding request; (ii) the Respondent has failed to reply to the Center’s communications relating to the language of proceedings and/or to the Notification of Complaint, both of which were issued in Vietnamese and English; (iii) the disputed domain name is not rendered in the Vietnamese alphabet (in other words, it is not an internationalized domain name which features the modified Latin script used in Vietnamese); (iv) it appears that the Respondent is likely to have some understanding of English, bearing in mind the use of certain English words on the website associated with the disputed domain name; and (v) bearing in mind the absence of a Response and indeed the absence of any communication from the Respondent in any language, the requirement to translate the Complaint into Vietnamese would give rise to delay and avoidable expense which would be prejudicial to the Complainant.

### **B. Identical or Confusingly Similar**

The first element assessment under the Policy is typically addressed in a two part process. First, the Complainant must demonstrate that it possesses UDRP-relevant rights in a trademark, whether registered or unregistered. Secondly, the disputed domain name is compared to such trademark, typically on a straightforward side-by-side basis, usually disregarding the Top-Level Domain, in order to assess identity or confusing similarity. If, on the basis of such comparison, the disputed domain name is seen to be identical to the Complainant’s trademark, identity will generally be found, while if the Complainant’s mark is otherwise recognizable in the disputed domain name, confusing similarity will usually be found.

In the present case, the Panel finds that the Complainant has UDRP-relevant rights in its GRAB and GRABTAXI registered trademarks as described in the factual background section above. Turning to the comparison exercise, the Panel notes that the disputed domain name incorporates the Complainant’s GRAB and GRABTAXI trademarks in their entirety. The disputed domain name merely reverses the Complainant’s GRABTAXI mark to make the term “taxigrab” and adds to this the term “giare”, which the Complainant notes means “cheap price” in Vietnamese. Although the Complainant’s submission as to the meaning of this term is unopposed, the Panel has taken the opportunity to verify it by way of a machine translation of “gi re”, rendered in the Vietnamese alphabet as “giá rẻ”, which indeed translates as “cheap” (“giá”) and as “price” (“rẻ”). Such additional words (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element (see section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”)).

In all of these circumstances, the Panel finds that the disputed domain name is confusingly similar to the Complainant’s trademark and accordingly that the Complainant has carried its burden with regard to paragraph 4(a)(i) of the Policy.

### **C. Rights or Legitimate Interests**

Paragraph 4(c) of the Policy lists several ways in which the Respondent may demonstrate rights or legitimate interests in the disputed domain name:

“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 demonstrate your rights or legitimate interests to the domain name for purposes of paragraph 4(a)(ii):

(i) before any notice to you of the dispute, your use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services; or

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

(iii) you are making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.”

The consensus of previous decisions under the Policy is that a complainant may establish this element by making out a *prima facie* case, not rebutted by the respondent, that the respondent has no rights or legitimate interests in a domain name. In the present case, the Panel finds that the Complainant has established the requisite *prima facie* case based on its submissions outlined above, together with the corresponding evidence indicating that the disputed domain name and associated website both make use of the Complainant’s GRAB trademark to offer competing services with those of the Complainant in a manner which is likely to be confusing to consumers.

In these circumstances, the burden of production shifts to the Respondent to set forth evidence of any rights or legitimate interests which it might have in the disputed domain name. The Respondent, however, has remained silent and has not engaged with the administrative proceeding or taken the opportunity to refute the Complainant’s allegations and evidence. There are no submissions or evidence on the present record which appear to support any claim that the Respondent might have made on this particular topic. Furthermore, the Panel has been unable to conceive of any potential rights or legitimate interests that the Respondent might have put forward if it had participated in the proceeding. The disputed domain name and corresponding website appear to be designed to take unfair commercial advantage of the Complainant’s rights in its GRAB and GRABTAXI trademarks. Such use does not confer any rights or legitimate interests upon the Respondent in the circumstances of this case, whether in terms of paragraph 4(c)(i) of the Policy or in any other respect.

In all of these circumstances, the Respondent has failed to rebut the Complainant’s *prima facie* case that the Respondent has no rights and legitimate interests in the disputed domain name, and accordingly the Panel finds that the Complainant has carried its burden in terms of paragraph 4(a)(ii) of the Policy.

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

Paragraph 4(b) of the Policy provides four, non-exclusive, circumstances that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith:

“(i) circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out of pocket costs directly related to the domain name; or

(ii) you have registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct; or

(iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) 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 the present case, the Panel notes the considerable fame of the Complainant's marks, including in the jurisdiction where the Respondent is based. These marks are of a longstanding nature and were registered well before the disputed domain name was registered. The Complainant has won awards internationally, and in the region and country where the Respondent is based. In these circumstances, it is inconceivable that the Respondent registered the disputed domain name without knowledge of the Complainant or its rights. Given that the Respondent has incorporated the Complainant's trademark in the disputed domain name in the manner described above and has used it in connection with a website offering competing services to those of the Complainant, implying an affiliation with the Complainant's offering where none exists, it is clear that the disputed domain name was registered with intent to target the Complainant's rights and indeed has been used to take unfair commercial advantage of these. These circumstances are indicative of registration and use in bad faith. Furthermore, the Panel finds that the Complainant has established that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website in terms of paragraph 4(b)(iv) of the Policy.

In all of the above circumstances, the Panel finds that the disputed domain name has been registered and is being used in bad faith and therefore that the Complainant has carried its burden in terms of 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 <taxigrabgiare.com> be transferred to the Complainant.

*/Andrew D. S. Lothian/*

**Andrew D. S. Lothian**

Sole Panelist

Date: June 28, 2023