

## **ADMINISTRATIVE PANEL DECISION**

GrabTaxi Holdings Pte. Ltd. v. Ngo Trong Nghia  
Case No. D2023-2829

### **1. The Parties**

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

The Respondent is Ngo Trong Nghia, Viet Nam.

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

The disputed domain name <xeomgrabdiansieure.com> (“Domain Name”) is registered with iNET Corporation (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 3, 2023. On July 3, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On July 4, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent (Unknown) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 12, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on July 12, 2023.

The Registrar confirmed that the language of the registration agreement of the Domain Name is Vietnamese. On July 12, 2023, the Center sent an email communication to the Complainant inviting it to provide satisfactory evidence of an agreement between the Complainant and the Respondent to the effect that the proceedings should be in English, to submit the Complaint translated into Vietnamese, or submit a request for English to be the language of the administrative proceedings. On July 12, 2023, the Complainant requested that English be the language of the proceeding. The Respondent did not comment on the language of the proceeding.

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

The Center appointed Nicholas Smith as the sole panelist in this matter on August 21, 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 Singapore company, incorporated in 2013, that is the intellectual property holding company for broader group of companies that offer services under the GRAB brand ("Grab Group"). The Grab Group, founded in 2012, offers software platforms and mobile applications for services including ride hailing, ride sharing, food delivery and digital payment, including a mobile phone application that operates under the trademark GRAB (the "GRAB Mark"). The Grab application is available and has a considerable reputation across South-East Asia, including in Singapore, Malaysia, Indonesia, Viet Nam (the location of the Respondent), and Thailand.

The Complainant has held a trademark registration for the GRAB Mark in various jurisdictions since 2013, including a registration for the GRAB Mark in Viet Nam since April 16, 2019 (no. 318225, for goods and services in classes 9, 38 and 39).

The Domain Name was registered on October 28, 2021. The Domain Name is presently inactive but prior to the commencement of the proceeding resolved to a website (the "Respondent's Website") that reproduces the GRAB Mark and offers taxi and transport services in direct competition with the services offered through the Complainant's Grab application.

#### **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 Domain Name.

Notably, the Complainant contends that:

- a) it is the owner of the GRAB Mark, having registered the GRAB Mark in various jurisdictions including Viet Nam. The Domain Name is confusingly similar to the GRAB Mark as it reproduces the GRAB Mark in its entirety and adds the descriptive terms "xeom" and "sieure" which translated into English mean "motorbike taxi" and "very cheap", and the geographical term "dian".
- b) there are no rights or legitimate interests held by the Respondent in respect of the Domain Name. The Complainant has not granted any license or authorization for the Respondent to use the GRAB Mark. The Respondent is not commonly known by the GRAB Mark, nor does it use the Domain Name for a *bona fide* purpose or legitimate noncommercial purpose. Rather, the Respondent is using the Domain Name for commercial gain by offering taxi and transport services in direct competition with the Complainant. Such use is not a legitimate use of the Domain Name.
- c) the Domain Name was registered and is being used in bad faith. The Respondent is using the Domain Name to divert Internet users searching for the Complainant to the Respondent's Website for commercial gain. Such conduct amounts to registration and use of the Domain Name in bad faith.

## B. Respondent

The Respondent did not formally reply to the Complainant's contentions. Prior to the commencement of the proceeding, the Respondent sent an email to the Center, which translated using Google Translate reads:

"HAVE YOU SENDED THE WORRY LETTER? THIS WEBSITE HAS BEEN CANCELLED FOR NEARLY 2 WEEKS ALREADY. (CÁC BẠN CÓ GỬI NHÃM THƯ KO. WEBSITE NÀY ĐÃ BỊ HỦY XÓA GẦN 2 TUẦN NÀY RỒI MÀ)."

## 6. Discussion and Findings

### 6.1. Procedural Issue: Language of the Proceeding

In the present case, the language of the registration agreement for the Domain Name is Vietnamese.

Pursuant to paragraph 11 of the Rules, 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 Complainant, upon receiving a notification that the language of the registration agreement for the Domain Name was Vietnamese from the Center, submitted a request for this dispute to proceed in English. The Center made a preliminary determination to accept the Complaint filed in English, subject to a determination by the Panel pursuant to paragraph 11 of Rules.

The WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.5.1, in considering how the (working) language of a UDRP proceeding is determined, states:

"Against this background, panels have found that certain scenarios may warrant proceeding in a language other than that of the registration agreement. Such scenarios include (i) evidence showing that the respondent can understand the language of the complaint, (ii) the language/script of the domain name particularly where the same as that of the complainant's mark, (iii) any content on the webpage under the disputed domain name, (iv) prior cases involving the respondent in a particular language, (v) prior correspondence between the parties, (vi) potential unfairness or unwarranted delay in ordering the complainant to translate the complaint, (vii) evidence of other respondent-controlled domain names registered, used, or corresponding to a particular language, (viii) in cases involving multiple domain names, the use of a particular language agreement for some (but not all) of the disputed domain names, (ix) currencies accepted on the webpage under the disputed domain name, or (x) other indicia tending to show that it would not be unfair to proceed in a language other than that of the registration agreement.

The credibility of any submissions by the parties and in particular those of the respondent (or lack of reaction after having been given a fair chance to comment) are particularly relevant.

Where it appears the parties reasonably understand the nature of the proceedings, panels have also determined the language of the proceeding/decision taking account of the panel's ability to understand the language of both the complaint and the response such that each party may submit pleadings in a language with which it is familiar."

In adopting a language other than that of the registration agreement, the panel has to exercise such discretion judicially in the spirit of fairness and justice to both parties, taking into account all relevant circumstances of the case, including matters such as the parties' ability to understand and use the proposed language, time and costs; see *Groupe Auchan v. xmxzl*, WIPO Case No. [DCC2006-0004](#); *Finter Bank Zurich v. Shumin Peng*, WIPO Case No. [D2006-0432](#).

The Panel finds that in the circumstances of this case, paragraph 11 of the Rules is best served by allowing the proceedings to be conducted in English. The Respondent, through the provision of Vietnamese

language notification documents, has been given a fair opportunity to object to the Complainant's choice of English as the language of the proceeding, but has not done so, nor has it participated in the proceeding formally. Noting disinclination of the Respondent to formally participate in the proceeding, the additional cost an order for translation would place on the Complainant and the need, that the Panel is mindful of, to ensure the proceeding is conducted in a timely and cost-effective manner, it would be appropriate to continue these proceedings in English.

The Panel also notes the Respondent's Website, although mostly in Vietnamese, contains some English-language elements; indeed the factual matrix of this case is very similar to the cases of *Williams-Sonoma, Inc. v. Nguyễn Văn Lư*, WIPO Case No. [D2023-0889](#); *Grabtaxi holdings pte. Ltd v. Hoang Xuan Quynh*, WIPO Case No. [D2023-1917](#) and *Nipro Corporation v. li zheng*, WIPO Case No. [D2023-2324](#). In each of those cases the Panel determined it would be appropriate to continue the proceeding in English, notwithstanding that English was not the language of the registration agreement of the domain names the subject of those proceedings.

## **6.2. Substantive Elements of the Policy**

### **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 complainant's trademark and the domain Name. [WIPO Overview 3.0](#), section 1.7.

Based on the available record, the Panel finds the Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the entirety of the GRAB mark is reproduced within the Domain Name. Accordingly, the Domain Name is identical or confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

While the addition of other terms, here "xeom", "sieur" and "dian", may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the Domain Name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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

### **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.

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 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 Domain Name.

The Panel considers that the record of this case reflects that:

- before any notice to the Respondent of the dispute, the Respondent did not use, nor has it made 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. Paragraph 4(c)(i) of the Policy, and [WIPO Overview 3.0](#), section 2.2.
- the Respondent (as an individual, business, or other organization) has not been commonly known by the Domain Name. Paragraph 4(c)(ii) of the Policy, and [WIPO Overview 3.0](#), section 2.3.
- the Respondent is not 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. Paragraph 4(c)(iii) of the Policy, and [WIPO Overview 3.0](#), section 2.4.
- the record contains no other factors demonstrating rights or legitimate interests of the Respondent in the Domain Name.

The Respondent's use of the Domain Name to resolve to a webpage reproducing the Complainant's GRAB Mark, and offering taxi and transport services in direct competition with the services offered through the Grab Group's Grab application does not amount to use for a *bona fide* offering of goods and services. Rather, it appears that the purpose behind the Respondent's conduct is to appropriate the fame and reputation of the Grab Group and its GRAB Mark to increase the number of visitors to the Respondent's Website for its commercial gain, such conduct not being *bona fide*.

Based on the available record, the Panel finds the second element of the 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 Policy, paragraph 4(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.

The Panel considers that the record of this case reflects that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other on-line 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 the Respondent's website or location. Paragraph 4(b)(iv) of the Policy, and [WIPO Overview 3.0](#), section 3.1.4.

The Panel finds that the Respondent must have been aware of the Grab Group and its reputation in the GRAB Mark at the time the Respondent registered the Domain Name. The Grab Group has offered services under the GRAB Mark in Viet Nam since 2014 and has developed a considerable reputation in the field of taxi and ride share services. The Respondent has provided no explanation, and neither it is immediately obvious, why an entity would register a domain name incorporating the GRAB Mark and redirect it to a website offering competing taxi services in unless there was an awareness of and an intention to create a likelihood of confusion with the Complainant, its GRAB Mark and the broader Grab Group.

The Respondent's Website purports to offer taxi and transport services in direct competition with the Grab Group. Noting the absence of any explanation for the registration, the Panel considers that the most likely explanation is that the Respondent is using the Domain Name to intentionally attempt to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the GRAB Mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's Website. The fact that the Domain Name presently resolves to an inactive website does not prevent a finding of bad faith.

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 paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the Domain Name <xeomgrabdiansieure.com> be transferred to the Complainant.

*/Nicholas Smith/*

**Nicholas Smith**

Sole Panelist

Date: August 28, 2023