

ADMINISTRATIVE PANEL DECISION

GrabTaxi Holdings Pte. Ltd. v. Ngo Trong Nghia
Case No. D2023-2920

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 <grabbinhduongsieure.com> is registered with iNET Corporation (the "Registrar").

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the "Center") on July 7, 2023. On July 7, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 10, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed 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 17, 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 17, 2023,

On July 17, 2023, the Center informed the parties in Vietnamese and English, that the language of the registration agreement for the disputed domain name is Vietnamese. On July 17, 2023, the Complainant confirmed its request that English be the language of the proceeding. The Respondent did not submit any comment on the Complainant's submission.

The Center verified that the Complaint together with the amended Complaint and the amendment to 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 July 31, 2023. In accordance with the Rules, paragraph 5,

the due date for Response was August 20, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on August 21, 2023.

The Center appointed Fabrizio Bedarida as the sole panelist in this matter on August 28, 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 in these administrative proceedings is GrabTaxi Holdings Pte. Ltd., a company incorporated in the Republic of Singapore on June 14, 2013. 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, without limitation, the mobile application named "Grab". Since October 2013, the Complainant 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. On March 26, 2018, the Complainant announced the acquisition of Uber's operations in Southeast Asia, including in 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 achieved 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 Vietnam's Best ICT Products Award 2017 - Mobile App category.

The Complainant has numerous registrations for the GRAB trademark around the world including in Viet Nam.

The Complainant is, *inter alia*, the owner of:

- Vietnamese trademark GRAB (device), registration number 4-0368019-000, registered on October 27, 2020;
- Vietnamese trademark GRAB, registration number 4-0368018-000, registered on October 27, 2020;
- Vietnamese trademark GRAB (device), registration number 4-0331702-000, registered on September 30, 2019;
- Vietnamese trademark GRABCAR, registration number 4-0339168-000, registered on December 9, 2019;
- Vietnamese trademark GRABFOOD, registration number 4-0339167-000, registered on December 9, 2019;
- Vietnamese trademark GRABEXPRESSFOOD, registration number 4-0391033-000, registered on June 28, 2021;
- International trademark GRAB TAXI (word), registration number 1213411, registered on May 20, 2014;
- International trademark GRAB INC (word), registration number 1291169, registered on December 7, 2015.

In addition, the Complainant holds the domain name <grab.com>.

The disputed domain name was registered on March 9, 2021, and the website associated with it offers transportation services in Viet Nam, in competition with the Complainant's business.

5. Parties' Contentions

A. Complainant

The Complainant claims that the disputed domain name is confusingly similar to the GRAB trademark registrations. In this regard the Complainant affirms that the disputed domain name, which contains the GRAB trademark in its entirety, is composed of four components, namely: "grab", "binhduong" (which is a geographical location in Viet Nam *i.e.*, Binh Duong Province), "sieure" ("siêu rẻ" meaning "very cheap" in English), and the Top-Level Domain "TLD" ".com".

The Complainant thus affirms that the addition of the geographical terms, Binh Duong, referring to a place in Viet Nam (where the Complainant provides its services), is not sufficient to dispel the confusing similarity. As well as this, the term "siêu rẻ" meaning "very cheap" in English, which can be seen as descriptive of the transportation booking services offered on the website at the disputed domain name and also of the services under the GRAB trademarks, is also not sufficient to avoid confusing similarity with the Complainant's renowned trademark.

The Complainant further states that the Respondent has no rights or legitimate interests whatsoever with respect to the disputed domain name. No license, or authorization of any other kind, has been given by the Complainant to the Respondent to use the GRAB trademarks. There is no record showing that the Respondent has ever established a right or legitimate interest in any domain name, trademark or trade name incorporating or similar to the GRAB trademarks. On the website associated with the disputed domain name, the Respondent fails to represent accurately that there is no relationship between the Parties and no authorization from the Complainant. In addition, the Complainant claims that the Respondent used advertising images of the Complainant without permission in order to present its services to customers in a deliberate attempt to create an undue association between the Complainant and the Respondent, and that this use cannot constitute a *bona fide* offering of goods and services.

The Complainant thus concludes that the disputed domain name has been intentionally registered and used to attract Internet users, for commercial gain by creating a likelihood of confusion with the GRAB trademark, such confusion encompassing the source, sponsorship, affiliation or endorsement of the website of the Respondent.

The Complainant specifically underlines that owing to the use and renown of the Complainant's trademark worldwide and specifically in Viet Nam, the Respondent must have had prior knowledge of the GRAB trademark before it registered the disputed domain name. As regards the Respondent's bad faith use of the disputed domain name, the Complainant affirms that the Respondent has been using the disputed domain name in bad faith for commercial gain and to profit from the confusion that the disputed domain name is somehow 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, pursuant to paragraph 4(b)(iv) of the Policy. The Complainant further claims that the Respondent is 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, and that while providing the above services, the Respondent uses the Complainant's trade name. The Complainant concludes by affirming that the Respondent's use of a privacy protection service also shows bad faith because it was paired with other acts that evidence bad faith, including registering the disputed domain name with knowledge of the Complainant's strong rights, using the disputed domain name for commercial gain.

B. Respondent

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

6. Discussion and Findings

6.1. Language of the Proceeding

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 “category”, “archives”, “visitors”, “copyright”, and “taxi”; (ii) the services offered on the Respondent’s website 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 delays 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 written in the Vietnamese alphabet but in Latin characters; (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 delays and avoidable expense which would be prejudicial to the Complainant. Accordingly, the Panel shall conduct the proceedings in English.

6.2. Substantive Issues

In order for the Complainant to obtain a transfer of the disputed domain name, paragraphs 4(a)(i) – (iii) of the Policy require that the Complainant must demonstrate to the Panel that:

- (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. Identical or Confusingly Similar

Owing to the fact that the gTLD suffix is generally disregarded under the test for confusing similarity for the purposes of the Policy, the disputed domain name appears to be composed of the following elements: “grab”, “binhduong” (the name of a geographical location) and “sieur” (“very cheap” in English).

The Complainant’s GRAB trademark, which is contained in its entirety in the disputed domain name is recognizable within the disputed domain name.

The addition in the disputed domain name of the above said terms does not prevent the GRAB trademark from being recognizable in the disputed domain name, and would not prevent a finding of confusing similarity under the first element.

Pursuant to section 1.8 of the Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") which states: "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 nature of such additional term(s) may however bear on assessment of the second and third elements."

Therefore, the Panel finds the disputed domain name to be confusingly similar to the GRAB trademark in which the Complainant has rights.

Accordingly, the Panel finds that the Complainant has satisfied paragraph 4(a)(i) of the Policy.

B. 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.

This Panel finds that the Complainant has made a *prima facie* case that the Respondent does not have rights or legitimate interests in the disputed domain name, and that the burden of production of evidence shifts to the Respondent.

The composition of the disputed domain name carries a risk of implied affiliation with the Complainant. As per the Complaint and undisputed by the Respondent, the Respondent has no connection or affiliation with the Complainant, and the Complainant has not licensed or otherwise authorized the Respondent to use or register any domain name incorporating the Complainant's trademark. The Respondent does not appear to engage in any legitimate noncommercial or fair use of the disputed domain name, nor any use in connection with a *bona fide* offering of goods or services. Indeed, it appears that the Respondent is 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 and in Viet Nam, and that while providing the above services, the Respondent used the Complainant's trade name and advertising images of the Complainant's without permission in a deliberate attempt to create an undue association between the Complainant and the Respondent. In addition, the Respondent does not appear to be commonly known by the disputed domain name or by a similar name. In fact, notwithstanding the name appearing on the Respondent's website, *i.e* Grabbinhduongsieure Transport Service Co., Ltd., noting the Respondent's name, Ngo Trong Nghia, the lack of evidence from the Respondent as to any existing link with Grabbinhduongsieure Transport Service Co., Ltd, and/or as to the very existence of this company, and the Complainant's undisputed claim that there is no record showing that the Respondent has ever established a right or legitimate interest in any domain name, trademark or trade name incorporating or similar to the

GRAB Trademarks, the Panel, on the balance of probability, considers that the Respondent likely displayed on its website the name Grabbinhduongsieure Transport Service Co., Ltd. to create an impression of association between the disputed domain name and the Complainant.

Moreover, the Respondent has not replied to the Complainant's contentions, claiming any rights or legitimate interests in the disputed domain name.

Accordingly, the Panel finds that the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

C. 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.”

Based on the evidence put forward by the Complainant, the Panel is of the opinion that the Respondent was aware of the Complainant's trademark registrations and rights to the GRAB trademark when it registered the disputed domain name.

The Complainant's GRAB trademarks also have a considerable reputation in Viet Nam, where the Respondent is based, and the GRAB trademarks were registered well before the disputed domain name was registered. In addition, the Complainant has won awards internationally, including in the region and country where the Respondent is based. Therefore, in these circumstances, it is inconceivable that the Respondent registered the disputed domain name for a website offering competing services to those of the Complainant without knowledge of the Complainant or its rights.

Consequently, it appears, on the balance of probability, that the Respondent registered the disputed domain name while aware of the Complainant's trademark and activity, and did so with the intention of creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation or endorsement of either the Respondent and/or the disputed domain name.

This constitutes bad faith registration and use as well as a disruption of the Complainant's business under the Policy.

Inference of bad faith can also be found in the Respondent's failure to respond to the Complainant's contentions, and the Respondent's lack of any rights or legitimate interests in the disputed domain name.

Accordingly, the Panel finds, on the basis of the evidence presented, that the Respondent registered and is using the disputed domain name in bad faith.

Therefore, the Complainant has satisfied 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, <grabbinhduongsieure.com>, be transferred to the Complainant.

/Fabrizio Bedarida/

Fabrizio Bedarida

Sole Panelist

Date: September 11, 2023