

## **ADMINISTRATIVE PANEL DECISION**

Whaleco Inc., Whaleco Technology Limited v. Lijun Wen  
Case No. DAE2025-0002

### **1. The Parties**

The Complainants are Whaleco Inc., United States of America (“USA”) and Whaleco Technology Limited, Ireland, represented by Whitewood Law PLLC, USA

The Respondent is Lijun Wen, of China.

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

The disputed domain name <temu.ae> (the “Disputed Domain Name”) is registered with AE Domain Administration (.aeDA).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 10, 2025. On January 10, 2025, the Center transmitted by email to .ae Domain Administration (“.aeDA”) a request for registrant verification in connection with the Disputed Domain Name. On January 16, 2025, .aeDA 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 UAE Domain Name Dispute Resolution Policy for – UAE DRP approved by .aeDA (the “Policy”), the Rules for UAE Domain Name Dispute Resolution Policy – UAE DRP (the “Rules”), and the Supplemental Rules for UAE Domain Name Dispute Resolution Policy – UAE DRP (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 January 20, 2025. In accordance with the Rules, paragraph 5(a), the due date for Response was February 9, 2025. The Respondent did not submit any Response. Accordingly, the Center notified the Respondent’s default on February 13, 2025.

The Center appointed Flip Jan Claude Petillion as the sole panelist in this matter on February 19, 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, Whaleco Inc. and Whaleco Technology Limited, operate an online shopping platform accessible through their website “https://temu.com” and mobile applications.

The Complainants claim to be the exclusive licensees of various trademarks consisting of or including the sign TEMU and owned by the company Five Bells Limited, including the following:

- TEMU, European Union word mark No. 018742564 registered on November 18, 2022 (filed on August 5, 2022) in classes 9, 35, 38, 42;
- TEMU, USA word mark No. 7,164,306, registered on September 12, 2023 (filed on August 10, 2022) in class 35.

The Disputed Domain Name was registered on August 27, 2022. The Disputed Domain Name resolves to an inactive website.

#### **5. Parties' Contentions**

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

The Complainants contend that they have satisfied each of the elements required under the Policy for a transfer of the Disputed Domain Name.

Notably, the Complainants contend that the Disputed Domain Name is identical to a trademark in which they claim to have rights.

The Complainants further claim that the Respondent has no legitimate interests in respect of the Disputed Domain Name as:

- there is no evidence to suggest that the Respondent is commonly known by the Disputed Domain Name;
- the Complainants have not licensed, otherwise permitted or authorized the Respondent to use the TEMU trademarks or brand, or to apply for any domain name that is identical to the TEMU trademarks or brand;
- the Respondent is not making use of the Disputed Domain Name, nor is there any evidence that a webpage or other online presence is in the process of being established under the Disputed Domain Name.

Finally, the Complainants claim that the Disputed Domain Name was registered and is being used in bad faith. According to the Complainants:

- the Respondent knowingly registered the Disputed Domain Name in an effort to capitalize on its potential commercial value and with the purpose to free ride on the back of the goodwill associated with the Complainants and their rights in the TEMU trademarks;
- it is a well-established precedent, especially in view of the facts of this case, that a passive holding of a disputed domain name can constitute bad faith registration and use.

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

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

## 6. Discussion and Findings

### 6.1. Preliminary Procedural Issue: Multiple Complainants

In the present case, the Complaint was filed by two separate Complainants. While the Policy and Rules do not directly contemplate the consolidation of multiple complainants in a single administrative Complaint, numerous panels have found that in certain circumstances such a consolidation may be permitted.

In assessing whether a complaint filed by multiple complainants may be brought against a single respondent, panels look at whether (i) the complainants have a specific common grievance against the respondent, or the respondent has engaged in common conduct that has affected the complainants in a similar fashion, and (ii) it would be equitable and procedurally efficient to permit the consolidation (see section 4.11.1 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").<sup>1</sup>

In the case at hand, the link between both the Complainants is clear from the undisputed evidence provided. The company names of both the Complainants are similar, and both the Complainants have been joint parties to previous proceedings relating to domain names incorporating the TEMU trademarks. See *Whaleco Inc. and Whaleco Technology Limited v. Tomasz Nowak*, WIPO Case No. [DEU2024-0006](#) (April 18, 2024).

The Panel therefore finds that it is sufficiently established that the Complainants have a specific common grievance against the Respondent and that it would be equitable and procedurally efficient to consolidate the Complainants.

### 6.2. Substantive Elements of the Policy

Paragraph 6(a) of the Policy provides that a Complainants must establish three elements in a mandatory administrative proceeding in order to divest a respondent of a domain name:

- i) the Disputed Domain Name is identical or confusingly similar to a trademark or service mark in which the Complainants have 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 or is being used in bad faith.

#### 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 Complainants' trademark and the Disputed Domain Name. [WIPO Overview 3.0](#), section 1.7.

Based on the available record, the Panel finds the Complainants have shown rights in respect of a trademark or service mark for the purposes of the Policy. According to the undisputed evidence provided by the Complainants, the Complainants are the exclusive licensees of various trademarks consisting of or including the sign TEMU and owned by the company Five Bells Limited. In addition, the Panel infers the existence of an authorization from the trademark owner to file a UDRP case based on the facts and circumstances described in the Complaint (*i.e.*, the claimed existence of an exclusive license and substantial advertising and promotional efforts made by the Complainants to promote the TEMU marks, as described in the declaration provided by the Senior Legal Counsel for the Complainant Whaleco Inc.).

The entirety of the TEMU mark is reproduced within the Disputed Domain Name, without any addition.

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<sup>1</sup>Given the similarities between the Policy and Rules on the one hand, and the Uniform Domain Name Dispute Resolution Policy ("UDRP") and associated rules on the other hand, the Panel considers some UDRP precedents as well as the applicable sections of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), relevant to the present proceeding and will refer to them where appropriate.

It is well established that country code Top-Level-Domains (“ccTLDs”), here “.ae”, may be disregarded when considering whether the Disputed Domain Name is confusingly similar to a trademark in which the Complainants have rights.

Accordingly, the Disputed Domain Name is identical to the TEMU mark for the purposes of the Policy. The Panel finds the first element of the Policy has been established.

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

Paragraph 6(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings, and similarly in .ae dispute resolution 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 difficult 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 (although the burden of proof always remains on the complainant). 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 available record, the Panel finds the Complainants have established a prima facie case that the Respondent lacks rights or legitimate interests in the Disputed Domain Name. The Respondent has not rebutted the Complainants’ 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.

The Panel notes that the Respondent has not apparently been commonly known by the Disputed Domain Name, and that the Respondent does not seem to have acquired trademark or service mark rights. According to the information provided by the Registrar, the Respondent is “Lijun Wen”. The Respondent’s use and registration of the Disputed Domain Name was not authorized by the Complainants.

Fundamentally, a respondent’s use of a domain name will not be considered “fair” if it falsely suggests affiliation with the trademark owner. The correlation between a domain name and the complainant’s mark is often central to this inquiry. Generally speaking, UDRP panels have found that domain names identical to a complainant’s trademark carry a high risk of implied affiliation. [WIPO Overview 3.0](#), section 2.5.1. The Panel finds that this applies to the present case.

Beyond looking at the domain name, UDRP panels assess whether the overall facts and circumstances of the case, and the absence of a response, support a fair use or not. [WIPO Overview 3.0](#), sections 2.5.2 and 2.5.3.

The Panel observes that the Disputed Domain Name resolves to an inactive website. In the Panel’s view, considering the circumstances of the case, this does not amount to any legitimate noncommercial or fair use or use in connection with a bona fide offering of goods and services.

The Respondent had the opportunity to demonstrate his rights or legitimate interests but did not do so. In the absence of a Response from the Respondent, the prima facie case established by the Complainants has not been rebutted.

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

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

The Policy, paragraph 6(b), lists non-exclusive circumstances that “if found by the Panel to be present, shall be evidence of the Registration or use of a Domain Name in bad faith”.

In the present case, the Panel finds that the following circumstances serve as indication of bad faith registration or use:

- the Disputed Domain Name is identical to the TEMU word marks;
- the Disputed Domain Name was created on August 27, 2022, days after the Complainants’ licensor filed applications for the TEMU trademarks;
- the Panel discovered that the Respondent was recently ordered to transfer a domain name to the Complainant Whaleco Inc. in very similar proceedings. See *Whaleco Inc. d/b/a Temu v. Lijun Wen*, WIPO Case No. [DRO2024-0003](#) (June 4, 2024);
- the Respondent did not take part in the administrative proceedings.

Given the totality of the circumstances discussed above, the current state of the Disputed Domain Name resolving to an inactive webpage would not prevent a finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3.

Based on the available record, the Panel finds that the Complainants have established the third element of the Policy.

### **7. Decision**

For the foregoing reasons, in accordance with paragraphs 6(i) of the Policy and 15 of the Rules, the Panel orders that the Disputed Domain Name <temu.ae> be transferred to the Complainant Whaleco Inc.

*/Flip Petillion/*

**Flip Petillion**

Panelist

Date: March 5, 2025