



**(Hong Kong Office)**

**ADMINISTRATIVE PANEL DECISION**

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<b>Case No.</b>	<b>HK-2201628</b>
<b>Complainant:</b>	<b>TACO BELL CORP</b>
<b>Respondent:</b>	<b>Yati binti Lanang</b>
<b>Disputed Domain Name(s):</b>	<b>&lt;tacobell.store&gt;</b>

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**1. The Parties and Contested Domain Name**

The Complainant is TACO BELL CORP, of 17901 Von Karman, Irvine, California 92614, United States of America (“U.S.”).

The Respondent is Yati binti Lanang, of Wilayah Persekutuan, Kuala Lumpur, Malaysia.

The domain name at issue is <tacobell.store>, registered by Respondent with ALIBABA.COM SINGAPORE E-COMMERCE PRIVATE LIMITED, of 51 Bras Basah Road #04-08 Lazada One Singapore, 189554 Singapore.

**2. Procedural History**

On June 10, 2022, pursuant to the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”) and the Rules for the Uniform Domain Name Dispute Resolution Policy (the “Rules”), the Complainant submitted a Complaint to the Hong Kong Office (“HK Office”) of the ADNDRC (“ADNDRC”). On June 13, 2022, the HK Office sent to the Complainant by email an acknowledgment of the receipt of the Complaint and reviewed the format of the Complaint for compliance with the Policy, the Rules and the HK Office Supplemental Rules. The HK Office also notified the Registrar of the Complaint by email. On June 14, 2022, the Registrar replied to the HK Office informing the identity of the Registrant. On the same day, the HK Office informed the Complainant that the information of the Respondent in the Complaint was different from the WHOIS information provided by the Registrar.

On June 17, 2022, the Complainant submitted an amended Complaint to the HK Office.

On June 20, 2022, the HK Office confirmed receipt and forwarded the amended Complaint to the Respondent. The due date of the Response was July 10, 2022. The Respondent did not file a Response and on July 11, 2022, the HK Office informed the Respondent of his default. On July 13, 2022, the HK Office appointed Francine Tan as the sole panelist in this matter.

### 3. Factual background

The Complainant, TACO BELL CORP, is a subsidiary of Yum! Brands, Inc., which provides Mexican-inspired food around the world. The name TACO BELL was inspired by its founder, Mr. Glen Bell, who started serving tacos at the first location in Downey, California in 1962. The Complainant and its more than 350 franchise organizations operate nearly 7,000 restaurants and serve more than 40 million customers each week in the U.S. Internationally, the Complainant is growing with nearly 500 restaurants across almost 30 countries, including 12 stores in China where the Respondent's headquarter office and warehouse appear to be located.

The Complainant owns a number of registered TACO BELL and TACO BELL- formative trade marks ("the TACO BELL trade marks") around the world, including but not limited to the following:

- U.S. Trade Mark Registration No. 72,223,746 for "TACO BELL", registered on December 6, 1966;
- U.S. Trade Mark Registration No. 72,305,764 for "TACO BELL", registered on October 28, 1969;
- U.S. Trade Mark Registration No. 86,339,768 for "TACO BELL", registered on July 28, 2015;
- U.S. Trade Mark Registration No. 86,479,005 for  "TACO BELL", registered on December 22, 2015;
- U.S. Trade Mark Registration No. 87,392,496 for  "TACO BELL", registered on October 30, 2018;
- China Trade Mark Registration No. 289720 for  "TACO BELL", registered on June 10, 1987;
- China Trade Mark Registration No. 775882 for  "TACO BELL", registered on January 14, 1995;
- China Trade Mark Registration No. 4418637 for  "TACO BELL", registered on July 14, 2008;
- China Trade Mark Registration No. 9644920 for "TACO BELL", registered on July 28, 2012;
- China Trade Mark Registration No. 23703473A for "TACO BELL", registered on May 28, 2018; and



- Malaysia Trade Mark Registration Nos. 2010017303 and 2010017302 for “TACO BELL”, registered on September 15, 2010.

The disputed domain name <tacobell.store> was registered on September 14, 2021 and resolves to what appears to be a fraudulent website selling counterfeit goods of the Complainant. It seeks to give the impression that it is an official store of the Complainant selling official TACO BELL merchandise. The Respondent states on the website that these TACO BELL products “cannot be found anywhere else”. The Complainant does not operate a warehouse at the address in Fujian Province, China which is shown on the Respondent’s website.

#### **4. Parties’ Contentions**

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

The Complainant’s contentions may be summarized as follows:

- i. The disputed domain name is identical to the Complainant’s TACO BELL trade marks in which it has rights.
- ii. The Respondent has no rights or legitimate interest in respect of the disputed domain name. The Complainant never gave permission, authorized or licensed the Respondent to use the TACO BELL trade marks in any manner or to register the disputed domain name. The Respondent is not commonly known by the disputed domain name.
- iii. The Respondent registered and is using the disputed domain name in bad faith. The TACO BELL trade marks have a high reputation worldwide and are exclusive associated with the Complainant. The Respondent is using the disputed domain name to attract and confuse Internet users into believing that she is affiliated with the Complainant by selling purportedly official TACO BELL products when she is in no way associated with the Complainant. The Respondent’s provision of TACO BELL-branded products on her website sufficiently evidences that the Respondent has actual knowledge of the Complainant and its TACO BELL trade marks.

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

The Respondent did not file a Response to the Complaint.

#### **5. Findings**

The ICANN Uniform Domain Name Dispute Resolution Policy provides, at Paragraph 4(a), that each of three findings must be made in order for a Complainant to prevail:

- i. the Respondent’s domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- ii. the Respondent has no rights or legitimate interests in respect of the domain name; and

- iii. the Respondent's domain name has been registered and is being used in bad faith.

#### **A) Identical / Confusingly Similar**

The Complainant has provided evidence of its trademark registrations for, and rights in, the TACO BELL marks.

The Complainant's TACO BELL mark is reproduced entirely in the disputed domain name. The Panel therefore finds that the disputed domain name is identical to the Complainant's TACO BELL mark. The inclusion of the generic Top-Level Domain ("gTLD") ".store", does not remove the identity with the Complainant's TACO BELL trade mark as the gTLD is merely a technical requirement for domain name registrations.

The first element of paragraph 4(a) of the Policy has been satisfied.

#### **B) Rights and Legitimate Interests**

The Panel finds that the Complainant has demonstrated a *prima facie* case that the Respondent lacks rights or legitimate interests in respect of the disputed domain name. There is no evidence that the Respondent is commonly known by the disputed domain name. The Respondent does not appear to use the disputed domain name for a legitimate noncommercial or fair use, without intent for commercial gain. The Respondent's conduct of:

- (i) blatant use of the Complainant's TACO BELL trade marks on her website as well as attempt to pass off the website as the Complainant's official website; and
- (ii) purporting to sell official TACO BELL goods of the Complainant despite not being licensed or authorized by, or being affiliated to, the Complainant, are all evidence of the Respondent's lack of rights and legitimate interests in the disputed domain name. Such use of the disputed domain name for an illegal activity can never confer rights or legitimate interests on the Respondent. (See *WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition* ("WIPO Overview 3.0"), section 2.13.)

Once a complainant has established a *prima facie* case that the respondent lacks rights or legitimate interests in the disputed domain name, the burden of production shifts to the respondent to show that it has rights or legitimate interests in respect of the disputed domain name. (See *WIPO Overview 3.0*, section 2.1.) The Respondent did not submit a Response to the Complaint, nor has she provided any explanation or evidence to show she has rights or legitimate interests in the disputed domain name. The Respondent has therefore failed to rebut the Complainant's *prima facie* case.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

The second element of paragraph 4(a) of the Policy has been satisfied.

### **C) Bad Faith**

A complainant has the burden of proving that the respondent registered and is using the disputed domain name in bad faith. Paragraph 4(a)(iii) of the Policy states that:

“[T]he 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:

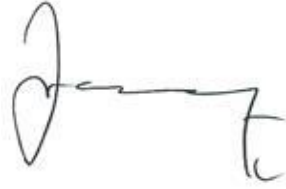
- (i) circumstances indicating that [the respondent has] registered or [the respondent has] acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; or
- (ii) [the respondent has] 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 [the respondent has] engaged in a pattern of such conduct; or
- (iii) [the respondent has] registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the domain name, [the respondent has] intentionally attempted to attract, for commercial gain, Internet users to [its] web site 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] web site or location or of a product or service on [the respondent's] web site or location.”

The Complainant's TACO BELL trade marks were registered in the U.S. since 1966, in Malaysia since 2010, and in China since 1987. Given the notoriety of and how long the Complainant's TACO BELL trade marks have been used, the appearance of the Respondent's website, and how the disputed domain name is being used by the Respondent, it is evident that the Respondent was well aware of and specifically targeted the Complainant and its TACO BELL trade marks. The Respondent is not an authorized reseller of the Complainant. The Respondent's attempt to pass off the goods sold from the Respondent's website as the Complainant's and ride off the reputation and goodwill of the Complainant has not been disputed by the Respondent. Further, the disputed domain name is identical to the Complainant's TACO BELL mark, which the Panel finds demonstrates a blatant attempt by the Respondent to confuse and/or mislead Internet users seeking or expecting the Complainant. This constitutes evidence of bad faith under paragraph 4(b)(iv) of the Policy.

The third element of paragraph 4(a) of the Policy has been satisfied.

**6. 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 <tacobell.store> be transferred to the Complainant.

A handwritten signature in black ink, appearing to read 'Francine Tan', written over a horizontal line.

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Francine Tan  
Panelist

Dated: July 22, 2022