



Asian Domain Name Dispute Resolution Centre

hong kong

**(Hong Kong Office)**

## **ADMINISTRATIVE PANEL DECISION**

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<b>Case No.</b>	<b>HK-2301717</b>
<b>Complainant:</b>	<b>TACO BELL CORP</b>
<b>Respondent:</b>	<b>zengyi xu</b>
<b>Disputed Domain Name(s):</b>	<b>&lt;tacobellmerch.com&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, USA.

The Respondent is zengyi xu of nangang area jinbohuayuan, 106 dong 2 danyuan 1502, Harbin, Heilongjiang.

The domain name at issue is <tacobellmerch.com>, registered by Respondent with GoDaddy.com, LLC.

### **2. Procedural History**

- i. On 20 January 2023, the Complainant's authorized representative Beijing Lusheng (Guangzhou) Law Firm, submitted the Complaint together with the accompanying Annexures to the Hong Kong Office of the Asian Domain Name Dispute Resolution Centre (Centre) via email pursuant to the Uniform Policy for Domain Name Dispute Resolution, approved by the Internet Corporation for Assigned Names and Numbers (ICANN) on 24 October 1999 (the Policy), the Rules for Uniform Domain Name Dispute Resolution Policy, approved by ICANN Board of Directors on 28 September 2013 (the Rules) and the ADNDRC Supplemental Rules for Uniform Domain Name Dispute Resolution Policy effective from 31 July 2015 (the Supplemental Rules).
- ii. On 26 January 2023, the Centre notified the Registrar, GoDaddy.com, LLC, of the disputed domain via email and requested verification and information on the domain name. The Centre also confirmed receipt of the Complaint and requested that the case filing fee be settled.
- iii. On 27 January 2023, the Registrar responded with the following verification and information: -

- a) the Disputed Domain Name <tacobellmerch.com> is registered with the Registrar;
  - b) the Respondent, DomainsByProxy.com, is not the registrant of the Disputed Domain Name, the correct registrant of the Disputed Domain Name is zengyi xu;
  - c) ICANN's Uniform Domain Name Dispute Resolution Policy is applicable to the Complaint;
  - d) the language of the registration agreement for the Disputed Domain Name is English;
  - e) the Disputed Domain Name's expiration date is 26 April 2023;
  - f) the Disputed Domain Name will remain locked during the proceedings; and
  - g) WHOIS information on the Disputed Domain Name.
- iv. On 27 January 2023, the Centre notified the Complainant's authorized representative of a deficiency in the Complaint where the information of the Respondent in the Complaint is different from the WHOIS information provided by the Registrar and requested that the deficiency be rectified within 5 calendar days.
  - v. On 30 January 2023, the Complainant's authorized representative notified the Centre that the Complainant had paid the case filing fee on 18 January 2023. A copy of the transaction slip was attached to the same e-mail. The Centre confirmed receipt of the case filing fee on the same day.
  - vi. On 1 February 2023, the Complainant's authorized representative sent the amended complaint form to the Centre. On the same day, the Centre confirmed that the Complaint is in compliance with the Uniform Domain Name Dispute Resolution Policy and its Rules, and informed the Complainant that the Complaint will be forwarded to the Respondent and that proceedings will be formally commenced in accordance with the Uniform Domain Name Dispute Resolution Policy and its Rules.
  - vii. On 1 February 2023, the Centre transmitted to the Respondent the Written Notice of Complaint via email and notified the Respondent that it is required to participate in mandatory administrative proceedings and that the Respondent may submit a Response on or before 21 February 2023.
  - viii. On 22 February 2023, the Centre sent confirmation that it did not receive a Response from the Respondent and, in accordance with the Complainant's request for the case to be decided by a single-member Panel, contacted Michael Soo Chow Ming.
  - ix. On 23 February 2023, Michael Soo Chow Ming confirmed his availability and ability to act independently and impartially vis-à-vis the parties, and he was appointed as panelist on 24 February 2023.






### **3. Factual background**

#### **A. Complainant**

The Complainant, a subsidiary of Yum! Brands, Inc., provides Mexican-inspired food worldwide under the name "TACO BELL". The name was inspired by its founder, Mr. Glen Bell, who started serving tacos at the first location in Downey, California, in 1962. With over 350 franchise organizations, the Complainant operates nearly 7,000 restaurants and

serves more than 40 million customers each week in the United States. Internationally, the Complainant has nearly 500 restaurants in almost 30 countries worldwide, including over 50 stores in China.

The Complainant is also the proprietor of the following trademark / service mark registrations: -

Registration No	Mark	Country	Class	Reg Date
72223746	TACO BELL	the United States	42	06.12.1966
72305764	TACO BELL		30	28.10.1969
86339768	TACO BELL		29, 30, 32 & 43	28.07.2015
86479005			43	22.12.2015
87392496			43	30.10.2018
289720		China	29	10.06.1987
775882			42	14.01.1995
4418637			43	14.07.2008
9644920	TACO BELL		43	28.07.2012
23703473A	TACO BELL		25	28.05.2018

**B. Respondent**

The Respondent did not file a Response within the prescribed time period.

**4. Parties' Contentions**

**A. Complainant**

The Complainant's contentions can be summarized as follows:

- i. The Disputed Domain Name is identical or confusingly similar to trademarks or service marks in which the Complainant has rights.
  - a) The Complainant has registered several "**TACO BELL**" trademarks / service marks in the United States since 1966 and in China since 1987. The Complainant contends that its "**TACO BELL**" trademarks / service marks predate the registration of the Disputed Domain Name on 26.04.2022. Therefore, the Complainant enjoys prior trademark rights over "**TACO BELL**" trademarks / service marks.
  - b) The Complainant contends that the Top-Level Domain ".com" is merely instrumental and commonly disregarded in the assessment of the first similarity test. Further, the Disputed Domain Name "**tacobellmerch**" consists of the Complainant's "**TACO BELL**" trademarks / service marks in its entirety and "**merch**", which is commonly known as the abbreviation of "**merchandise**". Mere addition of the generic word "**merch**"

(“**merchandise**”) by the Respondent does not prevent the Disputed Domain Name from being confusingly similar to the Complainant’s “**TACO BELL**” trademarks / service marks.

- c) The incorporation of the Complainant’s “**TACO BELL**” trademarks / service marks in the Disputed Domain Name is considered sufficient to find the Disputed Domain Name identical or confusingly similar to the Complainant’s “**TACO BELL**” trademarks / service marks.
- ii. The respondent has no rights or legitimate interests in respect of the Disputed Domain Name.
- a) The Complainant contends that the Respondent does not automatically acquire any rights or legitimate interests over the Disputed Domain Name because of its registration.
  - b) Searches confirmed that there are no “**TACO BELL**” nor “**TACOBELLMERCH**” trademarks in the name of the Respondent.
  - c) The Complainant has never authorized or permitted the Respondent to use the “**TACO BELL**” trademarks / service marks or use it to register any domain name consisting of the “**TACO BELL**” trademarks / service marks.
  - d) The Respondent is not affiliated with the Complainant in any manner, nor has any authorization, licensing or other business relationship with the Complainant or its affiliated companies.
  - e) The Respondent’s use of the Disputed Domain Name does not constitute a bona fide offering of goods or services, nor a legitimate non-commercial or fair use. The Disputed Domain Name is resolving to “**TACO BELL**” shop which is using the “**TACO BELL**” trademarks / service marks in relation to the sale of purported official “**TACO BELL**” merchandise.
  - f) The website prominently displays the “**TACO BELL**” trademarks / service marks, creating the impression that it is the official shop of the Complainant and selling official “**TACO BELL**” products. However, this is not the case and is contrary to fact.
  - g) The Complainant has never authorized Zengyi Xu / SOUFEEL JEWELRY LIMITED, or anyone else located at the disclosed address, to provide personalized unique designs for “**TACO BELL**” or produce “**TACO BELL**” merchandise.
  - h) The Complainant suspects that the website associated with the Disputed Domain Name is selling counterfeit “**TACO BELL**” products. Selling counterfeits suggests that the Respondent has no intention of using the Disputed Domain Name for any legitimate purpose, and therefore cannot claim any rights or legitimate interests over it.
  - i) Without a clear and prominent disclaimer on the website to accurately disclose the Respondent’s relationship with the Complainant, the

Respondent is unable to dispel confusion among internet users regarding the affiliation, sponsorship, or endorsement of the Disputed Domain Name with the Complainant. Therefore, the Respondent cannot establish any rights or legitimate interests over the Disputed Domain Name.

- iii. The Disputed Domain Name has been registered and is being used in bad faith.
- a) After long-term use and promotion by the Complainant, the “**TACO BELL**” trademarks / service marks have gained a worldwide reputation and established an exclusive connection with the Complainant.
  - b) The “**TACO BELL**” trademarks / service marks are exclusively associated with the Complainant and are primarily known as an identifier of the Complainant’s “**TACO BELL**” products and services. Internet search results generated by the term “**tacobell**” all direct to the Complainant and its “**TACO BELL**” products.
  - c) The Complainant argues that the Respondent’s sales of “**TACO BELL**” products on the website associated with the Disputed Domain Name indicates that the Respondent was aware of the Complainant and its trademarks / service marks. Therefore, the registration of the Disputed Domain Name is in bad faith.
  - d) The Complainant believes that the Respondent selected the “**TACO BELL**” as part of the Disputed Domain Name in order to exploit the goodwill of the Complainant and the Complainant’s “**TACO BELL**” trademarks / service marks for illegitimate interests.
  - e) The Disputed Domain Name is currently directing to a website that sells purported official “**TACO BELL**” products. The Respondent has not made it clear on the website that the Respondent is independent from the Complainant, which could mislead Internet users into believing that the website is owned or authorized by the Complainant. This lack of disclosure could cause confusion among Internet users who are seeking genuine “**TACO BELL**” products from the Complainant and may harm the Complainant’s reputation.
  - f) The Complainant believes that the Respondent’s use of the Disputed Domain Name to sell counterfeit products and falsely suggest an affiliation with the Complainant and its “**TACO BELL**” trademarks / service marks intentionally cause confusion among Internet users, which ultimately harm the Complainant’s reputation. Therefore, the Complainant asserts that the Respondent acted in bad faith.

Based on the above, the Complainant requests the Disputed Domain Name <**tacobellmerch.com**> be transferred to the Complainant.

#### B. Respondent

The Respondent did not file a Response within the prescribed time period.

## 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. Respondent's domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- ii. Respondent has no rights or legitimate interests in respect of the domain name; and
- iii. Respondent's domain name has been registered and is being used in bad faith.

Given that the Respondent failed to file a Response within the prescribed time, the Panel will consider and render a decision based on the information and materials submitted by the Complainant only.

### A) Identical / Confusingly Similar

- i. The Complainant has adduced evidence that it has registered several “**TACO BELL**” trademarks / service marks in the United States since 1966 and in China since 1987. The Disputed Domain Name, <**tacobellmerch.com**>, incorporates the entirety of the Complainant's “**TACO BELL**” trademarks / service marks.
- ii. In this regard, paragraph 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“**WIPO Jurisprudential Overview 3.0**”) states that “... *in cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing.*” [emphasis added]
- iii. This principle was decided in **EAuto, L.L.C. v Triple S. Auto Parts d/b/a Kung Fu Yea Enterprises, Inc.**; WIPO Case No. D2000-0047: -

*“When a domain name incorporates, in its entirety, a distinctive mark, that creates sufficient similarity between the mark and the domain name to render it confusingly similar.”*
- iv. The Complainant has also adduced sufficient evidence to prove that the Complainant's “**TACO BELL**” trademarks / service marks are well-known. Therefore, the incorporation of the Complainant's well-known “**TACO BELL**” trademarks / service marks in the Disputed Domain Name is considered sufficient to find the Disputed Domain Name confusingly similar to the Complainant's trademarks / service marks. This principle was decided in **Ansell Healthcare Products Inc. v Australian Therapeutics Supplies Pty, Ltd.**; WIPO Case No. D2001-0110: -

*“The incorporation of a Complainant's well-known trademark in the registered domain name is considered sufficient to find the domain name confusingly similar to the Complainant's trademark: see Quixtar Investments, Inc. v. Smithberger and QUIXTAR-IBO, Case No. D2000-0138 (WIPO, April 19, 2000)*

*(finding that because the domain name <quixter-sign-up.com>incorporates in its entirety the Complainant's distinctive mark, QUIXTER, the domain name is confusingly similar); Hewlett-Packard Company v. Posch Software, Case No. FA95322 (Nat. Arb. Forum, Sept. 12, 2000).*

[emphasis added]

- v. Further, it was found that the addition of generic words would not stop confusion from being caused by the use of a trademark in **Fondation Le Corbusier v Monsieur Bernard Weber, Madame Heidi Weber**; WIPO Case No. D2003-0251: -

*“Each disputed domain name includes the trademark LE CORBUSIER with the addition of a generic word: art, museum, fondation, foundation, centre or center. **The combinations obtained are generic and do not stop the confusion caused by the use of the trademark LE CORBUSIER**: The Body Shop International PLC. v. CPIC Net and Syed Hussain, WIPO Case No. D2000-1214; Space Imaging, eResolution Case No. AF0298. The words foundation and museum were found to be descriptive in Indivision Picasso v. Manuel Mu iz Fernandez [Hereisall], WIPO Case No. D2002-0496 as was the word center in Nintendo of America Inc. v. Berric Lipson, WIPO Case No. D2000-1121.”*

[emphasis added]

- vi. This principle can also be found in **Oki Data Americas, Inc. v ASD, Inc.**; WIPO Case No. D2001-0903: -

*“As numerous prior panels have held, the fact that a domain name wholly incorporates a complainant’s registered mark is sufficient to establish identity or confusing similarity for purposes of the Policy **despite the addition of other words to such marks.**”*

[emphasis added]

- vii. The panel agrees with the Complainant’s contention that the term “**merch**” is a commonly used abbreviation for “**merchandise**”, but it does not have significant distinguishing value that would dispel any likelihood of confusion between the Disputed Domain Name and the Complainant’s “**TACO BELL**” trademarks / service marks. Moreover, the words “**TACO BELL**”, which are the most prominent and distinctive element of the Disputed Domain Name, are clearly visible and immediately recognizable, thereby contributing to the confusion.

- viii. Other than that, the other element in the Disputed Domain Name is a generic Top-Level Domain (“gTLD”) suffix of “**.com**”. It is well established in domain name cases that the inclusion of gTLD and ccTLD is immaterial in determining whether the domain name in dispute is identical or confusingly similar to a Complainant’s trademark (**Volkswagen Group Singapore Pte Ltd v Webmotion Design** Case No.: rca/dndr/2003/01 (int)). This principle can also be found in **Rollerblade, Inc. v Chris McCrady**; WIPO Case No. D2000-0429: -

*“It is already well established that the specific top level of the domain name such as “net” or “com” does not affect the domain name for the purpose of determining whether it is identical or confusingly similar.”*

[emphasis added]

- ix. Therefore, the Panel finds that the Disputed Domain Name is identical / confusingly similar to the Complainant’s trademarks / service marks and that the Complainant has satisfied the first element in paragraph 4(a) of the Policy.

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

- i. Based on the facts presented, the Complainant has established a *prima facie* case in showing that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name.
- ii. The Complainant has confirmed that it has never authorized or permitted the Respondent to use the “**TACO BELL**” trademarks / service marks and domain name in any form. There is also no evidence of there being any trademark / service mark registrations in the name of the Respondent. The Respondent is also not affiliated with the Complainant in any manner, nor has any authorization, licensing or other business relationship with the Complainant or its affiliated companies.
- iii. Based on the information and materials submitted by the Complainant, the Respondent’s use of the Disputed Domain Name to sell purported official “**TACO BELL**” merchandise does not constitute a legitimate use as it creates the impression of being an official shop of the Complainant, which is not the case. The Disputed Domain Name does not have a bona fide offering of goods or services, nor a legitimate non-commercial or fair use.
- iv. The Complainant also suspects that the website associated with the Disputed Domain Name is selling counterfeit “**TACO BELL**” products (which the Respondent has not rebutted). Therefore, the Respondent cannot claim any rights or legitimate interests over the Disputed Domain Name.
- v. In **PJ Hungary Szolgáltató Korlátolt Felelősségű Társaság v Chenmei Mei Chen / Private Whois pepejeans-uk.org, Private Whois pepejeans-uk.net**; WIPO Case No. D2012-0441, it was held that: -

*“The unauthorized use made by the Respondent of the websites under the disputed domain names, where the Complainant’s trademark features prominently and products bearing its trademarks are sold, make it hard to imagine that the Respondent could ever establish any rights or legitimate interests.”*

[emphasis added]

- vi. In **Moncler S.r.l. v. wuyuansheng**; WIPO Case No. D2010-1670, it was found that: -



*“The Complainant has asserted that the Websites are used by the Respondent to market counterfeit Moncler goods. There can be no legitimate interest in the sale of counterfeits.”*

[emphasis added]

- vii. The absence of a clear and prominent disclaimer on the website to disclose the Respondent’s relationship with the Complainant also leads to confusion among internet users regarding the affiliation, sponsorship, or endorsement of the Disputed Domain Name with the Complainant. In **Oki Data Americas, Inc. v ASD, Inc.**; WIPO Case No. D2001-0903, it was found as follows: -

*“The site must accurately disclose the registrant's relationship with the trademark owner; **it may not, for example, falsely suggest that it is the trademark owner, or that the website is the official site, if, in fact, it is only one of many sales agents.** E.g., *Houghton Mifflin Co. v. Weatherman, Inc.*, WIPO Case No. D2001-0211 (WIPO April 25, 2001) (no bona fide offering where website's use of Complainant's logo, and lack of any disclaimer, suggested that website was the official Curious George website); *R.T. Quaipe Engineering v. Luton*, WIPO Case No. D2000-1201 (WIPO Nov. 14, 2000) (**no bona fide offering because domain name <quaipeusa.com> improperly suggested that the reflected site was the official U.S. website for Quaipe, an English company;** moreover, respondent's deceptive communications with inquiring consumers supported a finding of no legitimate interest); *Easy Heat, Inc. v. Shelter Prods.*, WIPO Case No. D2001-0344 (WIPO June 14, 2001) (no bona fide use when respondent suggested that it was the manufacturer of complainant's products).”*

[emphasis added]

- viii. Further, there is no evidence that the Respondent is commonly known by the Disputed Domain Name or that the Respondent has used the Disputed Domain Name for a legitimate non-commercial or fair use, without intent for commercial gain.
- ix. In any event, the Respondent did not submit a response with the Centre and consequently failed to adduce evidence to prove it has any right or legitimate interest in the Disputed Domain Name. In this regard, paragraph 2.1 of the WIPO Jurisprudential Overview 3.0 states as follows: -

*“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.**”*

[emphasis added]

- x. In other words, the absence of rights or legitimate interests is established if a complainant makes out a *prima facie* case and the respondent enter no response. (**De Agostini S.p.A. v Marco Cialone**; WIPO Case No. DTV2002-0005).

- xi. Therefore, the Panel finds that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name.

### C) **Bad Faith**

- i. It is necessary for the Complainant to show that the Disputed Domain Name was registered and is being used in bad faith to establish bad faith for the purposes of the Policy. Paragraph 4(b) of the Policy provides: -

*“For the purposes of Paragraph 4(a)(iii), the 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 Registrant has registered or 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 the Registrant’s documented out-of-pocket costs directly related to the Domain Name; or*
- (ii) the Registrant 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 Registrant has engaged in a pattern of such conduct; or*
- (iii) the Registrant has registered the domain name primarily for the purpose of disrupting the business of a competitor; or*
- (iv) **by using the Domain Name, the Registrant has intentionally attempted to attract, for commercial gain, Internet users to the Registrant’s 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 Registrant’s web site or location or of a product or service on the Registrant’s web site or location.**”*

[emphasis added]

- ii. The Panel finds that the Respondent’s conduct in this case constitutes bad faith registration and / or use of the Disputed Domain Name within the meaning paragraph 4(a)(iii) of the Policy.
- iii. Based on the information and materials submitted by the Complainant, the Complainant’s “**TACO BELL**” trademarks / service marks have a worldwide reputation and are exclusively associated with the Complainant. The Complainant’s marks primarily identify the Complainant’s products and services, and all internet search results generated by the term “**tacobell**” lead to the Complainant and its products.

- iv. In Swarovski Aktiengesellschaft v WhoisGuard Protected / Peter D. Person; WIPO Case No. D2014-1447, it was found that: -

*“Given the circumstances of the case, in particular the extent of use of the Complainant's trademark, the reputation and the distinctive nature of the mark, it is inconceivable to the Panel in the current circumstances that the Respondent registered the disputed domain name without prior knowledge of the Complainant and the Complainant's mark. Further, the Panel finds that the Respondent could not have been unaware of the fact that the disputed domain name it chose could attract Internet users in a manner that is likely to create confusion for such users.*

*The Panel therefore finds that the disputed domain name was registered in bad faith.”*

[emphasis added]

- v. In Maori Television Service v Damien Sampat; WIPO Case No. D2005-0524, it was found that: -

*“A finding of bad faith may be made whether the Respondent knew or should have known of the registration and use of the trade mark prior to registering the domain”*

[emphasis added]

- vi. In Paule Ka v Paula Korenek; WIPO Case No. D2003-0453, it was found that: -

*“The Respondent knew she was using a commercial name (protected as a trademark) because she copied it ... That knowledge is sufficient to constitute bad faith registration under the Policy, even if the Respondent asserts that she did not think she was infringing any rights. Ignorance of the law is no excuse”*

[emphasis added]

- vii. The Respondent's sales of “**TACO BELL**” products on the website associated with the Disputed Domain Name clearly show the Respondent's knowledge of the Complainant and its trademarks / service marks. It would be unreasonable to conclude that the Respondent was unaware of the Complainant's well-known “**TACO BELL**” trademarks / service marks when registering the Disputed Domain Name. Therefore, the Panel finds that the Respondent intended to exploit the goodwill of the Complainant and its trademarks for illegitimate interests by selecting “**TACO BELL**” as part of the Disputed Domain Name.

- viii. In Alstom v Yulei; WIPO Case No. D2007-0424, it was held that: -

*“Therefore, the Panel finds that it is not conceivable that the Respondent would not have had actual notice of the Complainant's trademark rights at the time of the registration of the domain name. Consequently, in the absence of contrary evidence from the Respondent, the Panel finds that the ALSTOM trademarks are not those that traders could legitimately adopt other than for*

*the purpose of creating an impression of an association with the Complainant.*”

[emphasis added]

- ix. The Respondent also failed to rebut the Complainant’s contention that the Disputed Domain Name is leading to a website that sells “**TACO BELL**” products, without making it clear that it is independent from the Complainant. This could mislead Internet users into believing that the website is owned or authorized by the Complainant, causing confusion among those seeking genuine “**TACO BELL**” products from the Complainant. Therefore, the Panel finds the Respondent is using the Disputed Domain Name in bad faith to falsely suggest an affiliation with the Complainant and its “**TACO BELL**” trademarks / service marks, intentionally causing confusion on Internet users, within the meaning of Paragraph 4(b)(iv) of the Policy.
- x. In **Edmunds.com, Inc v Triple E Holdings Limited**; WIPO Case No. D2006-1095, it was found that: -

*“A likelihood of confusion is presumed, and such confusion will inevitably result in the diversion of Internet traffic from the Complainant’s site to the Respondent’s site. In this regard, prior WIPO decisions have established that attracting Internet traffic by using a domain name identical or confusingly similar is evidence of bad faith under paragraph 4(b)(iv) of the Policy.”*

[emphasis added]

- xi. Thus, the Panel finds that the Respondent has registered and has used the Disputed Domain Name in bad faith.

## 6. Decision

Based on the foregoing reasons, the Complaint is allowed and the Disputed Domain Name, <**tacobellmerch.com**>, is to be transferred to the Complainant.



Michael Soo Chow Ming  
Panelist

Dated: 8<sup>th</sup> March 2023