

ADMINISTRATIVE PANEL DECISION

Intelius LLC v. 朱陈彪 (Bill Zhu)

Case No. DCO2023-0037

1. The Parties

The Complainant is Intelius LLC, United States of America ("United States" or "USA"), represented by Tyz Law Group, United States.

The Respondent is 朱陈彪 (Bill Zhu), China.

2. The Domain Name and Registrar

The disputed domain name <zabasearch.co> is registered with Alibaba Cloud Computing Ltd. d/b/a HiChina (www.net.cn) (the "Registrar").

3. Procedural History

The Complaint in English was filed with the WIPO Arbitration and Mediation Center (the "Center") on April 12, 2023. On April 12, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 13, 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 (ZabaSearch) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 14, 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 in English on April 15, 2023.

On April 14, 2023, the Center transmitted an email communication to the Parties in English and Chinese regarding the language of the proceeding. On April 15, 2023, the Complainant confirmed the request 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 in English and Chinese of the Complaint, and the proceedings commenced on April 21, 2023. In accordance with the Rules, paragraph 5, the due date for Response was May 11, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on May 16, 2023.

The Center appointed Deanna Wong Wai Man as the sole panelist in this matter on May 26, 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 operates the "www.zabasearch.com" website, which allows users to quickly find information about themselves or other individuals, aggregated from a variety of publicly available sources. The Complainant also owns various other websites that offer similar people searching services.

The Complainant provides evidence that it owns a portfolio of trademark registrations for ZABASEARCH. An example of such registrations includes USA trademark registration number 3089782 for the word mark ZABASEARCH, registered on May 9, 2006. The relevant registered trademark adduced by the Complainant was successfully registered prior to the date of registration of the disputed domain name by the Respondent, which is June 9, 2019.

The disputed domain name directs to an active website which appears to be a competing search website using the ZABASEARCH trademark, but redirects Internet users to the Complainant's website hosted at the domain name <truthfinder.com> upon filling out personal information on the website linked to the disputed domain name.

5. Parties' Contentions

A. Complainant

The Complainant essentially contends that the disputed domain name is identical to its trademark for ZABASEARCH, that the Respondent has no rights or legitimate interests in respect of the disputed domain name, and that the disputed domain name was registered, and is being used in bad faith.

The Complainant essentially claims that the Respondent is unlawfully using the Complainant's trademark in the disputed domain name and argues that the Respondent is using the disputed domain name to harvest sensitive data such as personal data from unsuspecting Internet users and is conducting phishing activities. Furthermore, the Complainant contends that the Respondent intentionally attempted to attract Internet users to the Respondent's website for commercial gain 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 of a product or service on the Respondent's website. Finally, the Complainant also claims in its amended Complaint that the Respondent has engaged in a pattern of trademark-abusive registrations, by registering various domain names incorporating famous third party brands. The Complainant essentially contends that the registration and use of the disputed domain name in such circumstances constitutes registration and use in bad faith.

The Complainant requests the transfer of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

6.1. Preliminary Issue: Language of the Proceeding

Pursuant to paragraph 11(a) of the Rules, 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.

According to the Registrar's verification response, the language of the Registration Agreement for the disputed domain name is Chinese. Nevertheless, the Complainant filed its Complaint and its amended Complaint in English, and requests that English be the language of the proceeding. The Panel notes that the Respondent did not comment on the language of the proceeding and did not submit any arguments on the merits of this proceeding.

In considering this request, the Panel has carefully reviewed all elements of this case, and deems the following elements particularly relevant: the Complainant's request that the language of the proceeding be English; the lack of comment on the language of the proceeding and the lack of response on the merits of this proceeding by the Respondent (the Panel notes that the Respondent was invited by the Center in Chinese and in English and in a timely manner to present his/her comments and response in either Chinese or English, but chose not to do so); the fact that the disputed domain name is written in Latin letters and not in Chinese characters and the fact that the website linked to the disputed domain name is exclusively in English but not in Chinese; and, finally, the fact that Chinese as the language of the proceeding could lead to unwarranted delays and additional costs for the Complainant. In view of all these elements, the Panel grants the Complainant's request, and decides that the language of this proceeding shall be English.

6.2. Discussion and Findings on the Merits

The Policy requires the Complainant to prove three elements:

- (a) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (b) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (c) the disputed domain name has been registered and is being used in bad faith.

Based on the evidence and arguments submitted, the Panel's findings are as follows:

A. Identical or Confusingly Similar

The Panel finds that the Complainant has provided sufficient evidence that it has valid rights in its mark for ZABASEARCH, based on its use and registration of the same as a trademark, as stated above.

Further, as to whether the disputed domain name is identical or confusingly similar with the Complainant's ZABASEARCH mark, the Panel finds that the disputed domain name consists of only one element, namely the Complainant's ZABASEARCH trademark followed by the country code Top-Level Domain (ccTLD) ".co". According to the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.11.1, "[t]he applicable Top Level Domain ('TLD') in a domain name (e.g., '.com', '.club', '.nyc') is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test".

Accordingly, based on the above elements, the Panel finds that the disputed domain name is identical to the Complainant's trademark. The Panel decides that the Complainant has satisfied the requirements of the first element under the Policy.

B. Rights or Legitimate Interests

On the basis of the evidence and arguments submitted, the Panel accepts that the Complainant makes out a *prima facie* case that the Respondent is not, and has never been, an authorized reseller, service provider, licensee, or distributor of the Complainant, is not a good faith provider of goods or services under the disputed domain name and is not making legitimate noncommercial use or fair use of the disputed domain name. The Panel also notes that the Respondent is not commonly known by the disputed domain name. As such, the Panel finds that the burden of production regarding this element shifts to the Respondent (see [WIPO Overview 3.0](#), section 2.1). However, no evidence or arguments have been submitted by the Respondent in reply.

Further, upon review of the facts and the evidence submitted in this proceeding, the Panel notes that the disputed domain name directs to an active website which appears to be a competing search website using the ZABASEARCH trademark, but redirects Internet users to the Complainant's website hosted at the domain name <truthfinder.com> upon filling out personal information on the website linked to the disputed domain name. The Panel agrees with the Complainant that this poses a grave risk of fraud and phishing, as it may lead unsuspecting Internet users to share sensitive information such as personal information and payment information with the Respondent. It is clear to the Panel from the foregoing elements that the Respondent is not acting as a good faith provider of goods or services under the disputed domain name (see *Ok i Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#)) and that there are also no other apparent circumstances indicating or conferring any rights or legitimate interests in the disputed domain name on the Respondent. Moreover, the Panel also finds that the nature of the disputed domain name carries a risk of implied affiliation with the Complainant, as it effectively impersonates the Complainant, see [WIPO Overview 3.0](#), section 2.5.1.

On the basis of the foregoing elements, the Panel considers that none of the circumstances of rights or legitimate interests envisaged by paragraph 4(c) of the Policy apply, and that the Complainant has satisfied the requirements of the second element under the Policy.

C. Registered and Used in Bad Faith

Given the intensive use and the longstanding registration of the Complainant's prior registered trademark, the Panel finds that the subsequent registration of the disputed domain name, which is identical to such trademark, clearly and consciously targeted the Complainant's prior registered trademark for ZABASEARCH. The Panel deducts from these efforts to consciously target the Complainant's prior registered trademark that the Respondent knew, or at least should have known, of the existence of the Complainant's trademark at the time of registering the disputed domain name. In the Panel's view, the foregoing elements clearly indicate bad faith on the part of the Respondent, and the Panel therefore finds that it has been demonstrated that the Respondent registered the disputed domain name in bad faith.

As to use of the disputed domain name in bad faith, the disputed domain name directs to an active website which appears to be a competing search website using the ZABASEARCH trademark, but redirects Internet users to the Complainant's website hosted at <truthfinder.com> upon filling out personal information on the website linked to the disputed domain name. The Panel concludes from these facts that the Respondent is intentionally attracting Internet users for commercial gain to the website associated with the disputed domain name, by creating consumer confusion between the website associated with the disputed domain name and the Complainant's trademark. This constitutes direct evidence of the Respondent's bad faith under paragraph 4(b)(iv) of the Policy. With regard to the apparent risk of phishing activities conducted through the website linked to the disputed domain name, the Panel also refers to the [WIPO Overview 3.0](#), section 3.4: "[p]anel[s] have held that the use of a domain name for purposes other than to host a website may constitute bad faith. Such purposes include sending email, phishing, identity theft, or malware distribution". The preceding elements lead the Panel to conclude that the Respondent is using the disputed domain name in bad faith. The Panel therefore finds that it has been demonstrated that the Respondent has used, and is using the disputed domain name in bad faith.

Finally, the Respondent has failed to provide any response or evidence to establish its good faith or absence of bad faith. The Panel therefore finds that the Complainant has satisfied the requirements of the third requirement under 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, <zabasearch.co>, be transferred to the Complainant.

/Deanna Wong Wai Man/

Deanna Wong Wai Man

Sole Panelist

Date: June 2, 2023