

ADMINISTRATIVE PANEL DECISION

Zacks Investment Research, Inc. v. Privacy Service Provided by Withheld for Privacy ehf / Igwe Victor
Case No. D2022-2260

1. The Parties

The Complainant is Zacks Investment Research, Inc., United States of America (“United States”), represented by Latimer LeVay Fyock LLC, United States.

The Respondent is Privacy Service Provided by Withheld for Privacy ehf, Iceland / Igwe Victor, Nigeria.

2. The Domain Name and Registrar

The disputed domain name <zackstrade.live> (the “Domain Name”) is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 21, 2022. On June 22, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On June 22, 2022, the Registrar transmitted by email to the Center its verification response, disclosing registrant and contact information for the Domain Name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on June 24, 2022, 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 amendment to the Complaint on June 27, 2022.

The Center verified that the Complaint, together with 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 8, 2022. In accordance with the Rules, paragraph 5, the due date for Response was July 28, 2022. The Respondent sent an informal email to the Center on June 25, 2022. No formal Response was filed.

The Center appointed Ian Lowe as the sole panelist in this matter on August 9, 2022. 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

Since 1978, the Complainant has been offering independent research and investment related content. It provides professional investors with financial data and analysis to enable customers to make better investment decisions. The Complainant's primary website is at "www.zacks.com". The Complainant also manages client assets worth billions of US Dollars through its Zacks Investment Management subsidiary. Through a separate company, the owner of the Complainant also operates a website at "www.zackstrade.com" that allows individual investors both in the United States and internationally to trade actively.

The Complainant is the proprietor of a number of registered trademarks comprising ZACKS, including United States trademark number 5652428 ZACKS registered on January 15, 2019. The Complainant's associate company uses the following word and device mark (the "Complainant's Device Mark") in the heading of the home page of "www.zackstrade.com":



The Domain Name was registered on January 28, 2022. It does not presently resolve to an active website but to a webpage warning the user of "Deceptive Site Ahead". At the time of preparation of the Complaint, it resolved to a website with the Complainant's Device Mark in the heading of the home page and the banner "Zacks Trade: Built for the Active Trader". The website solicited users to open an account, to transfer funds to such account and to trade in Bitcoins. It gave a United States telephone number as a contact and an email address [...]@zackstrade.live but otherwise gave no indication as to the identity of the operator of the website.

5. Parties' Contentions

A. Complainant

The Complainant contends that the Domain Name is confusingly similar to its ZACKS trademark (the "Mark"), that the Respondent has no rights or legitimate interests in respect of the Domain Name, and that the Respondent registered and is using the Domain Name in bad faith within the meaning of the Policy.

B. Respondent

The Respondent did not reply formally to the Complainant's contentions. It sent an email to the Center on June 25, 2022, stating: "I'm just a web developer I don't know what all this means can pls explain in a simpler way thank".

6. Discussion and Findings

For this Complaint to succeed in relation to the Domain Name the Complainant must prove that:

- (i) the 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 Domain Name; and
- (iii) the Domain Name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Complainant has uncontested rights in the Mark, both by virtue of its trademark registration and as a result of the substantial goodwill and reputation acquired through its widespread use of the Mark over a number of years. Ignoring the generic Top-Level Domain (“gTLD”) “.live”, the Domain Name comprises the entirety of the Mark with the addition of the word “trade”. In the view of the Panel, the addition of this dictionary word does not prevent a finding of confusing similarity between the Mark and the Domain Name. Accordingly, the Panel finds that the Domain Name is confusingly similar to a trademark in which the Complainant has rights.

B. Rights or Legitimate Interests

The Complainant has made out a strong *prima facie* case that the Respondent could have no rights or legitimate interests in respect of the Domain Name. The Respondent is not authorized by the Complainant to use the Domain Name. The Respondent has not used the Domain Name in connection with a *bona fide* offering of goods or services, but rather has used it for a website featuring the Complainant’s Device Mark in the heading, soliciting users to open an account, to transfer monies to such account and to trade in Bitcoin. The legitimate inference is that the Respondent has done so with a view to phishing for personal information. In the Panel’s view such activity cannot give rise to rights or legitimate interests.

The Respondent has chosen not to respond formally to the Complaint or to take any steps to counter the *prima facie* case established by the Complainant. In the circumstances, the Panel finds that the Respondent does not have any rights or legitimate interests in respect of the Domain Name.

C. Registered and Used in Bad Faith

In light of the use of the Complainant’s Device Mark in the heading of the home page of the Respondent’s website, the Panel is in no doubt that the Respondent had the Complainant and its rights in the Mark in mind when it registered the Domain Name. The Panel considers that the Respondent has registered and used the Domain Name to deceive Internet users into believing that the Domain Name is operated or authorized by the Complainant, and to attract Internet users by creating a likelihood of confusion with the Mark, with a view to phishing for personal information or other fraudulent purposes, no doubt for commercial gain. The Panel considers that this amounts to paradigm bad faith registration and use.

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 Domain Name <zackstrade.live> be transferred to the Complainant.

/Ian Lowe/

Ian Lowe

Sole Panelist

Date: August 23, 2022