

## **ADMINISTRATIVE PANEL DECISION**

Zions Bancorporation, N.A. v. Anton Trifanov  
Case No. D2022-4946

### **1. The Parties**

The Complainant is Zions Bancorporation, N.A., United States of America (“United States”), represented by TechLaw Ventures, PLLC, United States.

The Respondent is Anton Trifanov, Russian Federation.

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

The disputed domain name <zionsbank.fun> registered with Registrar of Domain Names REG.RU LLC (the “Registrar”).

### **3. Procedural History**

The Complaint in English was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 22, 2022. On December 22, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 27, 2023, the Registrar 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 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 January 18, 2023. In accordance with the Rules, paragraph 5, the due date for Response was February 7, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 8, 2023.

The Center appointed William A. Van Caenegem as the sole panelist in this matter on February 13, 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 is the owner of a number of trademarks registered with the United States Patent and Trademark Office, these being ZIONS BANK, registration No. 2,381,006, ZIONSBANK.COM, registration No. 2,531,436, and ZIONS, registration No. 2,380,325. Zions Bancorporation, the predecessor in interest to the Complainant, was the original applicant and registrant of these trademarks, which were subsequently assigned to Complainant. These registered marks are presently in use by Complainant and registered for financial services of all kinds and associated services. Since July 5, 1995, the Complainant, or its predecessor in interest, has also been the registrant and operator of the domain name <zionsbank.com>.

The disputed domain name was registered on November 26, 2022, previously resolved to a copycat website and does not now link to any active website.

#### 5. Parties' Contentions

##### A. Complainant

The Complainant points out that the threshold requirement for confusing similarity is that its registered trademark be recognizable in the disputed domain name, which is the case here. The Complainant also says that the addition of descriptive terms does not prevent a finding of confusing similarity. In particular, the addition of the term "fun" after "zionsbank" alludes, so the Complainant says, to the provision of services that are related in some way to the Complainant's banking services. The disputed domain name is also said to include the dominant part of Complainant's registered mark ZIONSBANK.COM. In fact, the only difference with the Complainant's registered trademarks is the new generic top-level domain ("gTLD") '.fun'. The use of this top-level domain is disregarded under the first element, the Complainant says, pointing to section 1.11.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") Accordingly, it does not distinguish the disputed domain name from the Complainant's registered marks.

The Complainant points out that it has been using its ZIONS mark in commerce since at least 1891, and obtained federal registration for it on August 29, 2000. The Complainant has also been using its ZIONS BANK mark in commerce since at least 1992, and obtained federal registration for it on August 29, 2000. The Complainant has been using its ZIONSBANK.COM mark in commerce since at least as early as 1995, and obtained federal registration for it on January 22, 2002. By contrast, the Respondent acquired the registration for the disputed domain name only on November 26, 2022. Before filing this Complaint, the Complainant says it has not been aware of any evidence concerning the Respondent's use of, or demonstrable preparations to use, the disputed domain name or a name corresponding to it in connection with a *bona fide* offering of goods or services. Instead, the domain name resolved at the time the Complaint was finalised to a website that displayed the Complainant's marks and was nearly identical to the Complainant's website. The Complainant says that it is not aware that the Respondent, as an individual, business, or other organization, has been commonly known by the disputed domain name, or that the Respondent has acquired no trademark or service mark rights.

The Complainant maintains that the Respondent is not making a legitimate non-commercial or fair use of the disputed domain name; rather, the Respondent appears to be using it with the intent to acquire commercial gain by misleadingly diverting consumers to its own website. Such use of the disputed domain name may also tarnish its registered trademarks, according to the Complainant. The Respondent is not a licensee of Complainant's trademarks, and has not obtained authorization to use its marks. In any event, the Complainant points out that if the use of a disputed domain name is abusive of third-party trademark rights its use does not support a claim to rights or legitimate interests under the UDRP.

The Complainant further asserts that the mere registration of a domain name that is identical or confusingly similar (particularly domain names incorporating the mark plus a descriptive term) to a widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. On November 28, 2022

the disputed domain name resolved to a website displaying the Complainant's trademarks and that was nearly identical to the Complainant's website. The use of the Complainant's marks in the disputed domain name and on the Respondent's website without authorization is presumptively in bad faith, is misleading, and may divert consumers to the Respondent's website instead of to the Complainant's official and authorized Website.

The Complainant says its trademarks are widely known in the State of Utah, United States, and surrounding regions and bad faith registration of a domain name can be found when a respondent "knew or should have known" about the existence of a complainant's trademarks, especially where the latter are widely known or highly specific and a respondent cannot credibly claim to have been unaware of the mark.

Finally, the Complainant says that it (or its affiliates) has prevailed in several prior complaints for domain names that include its registered marks in circumstances similar to the present proceeding. In many Panel decisions, that the Complainant cites, disputed domain names have been transferred to the Complainant, and the latter says that each of these domain name decisions should be given consideration here for the sake of consistency (referring to [WIPO Overview 3.0](#), section 4.1).

## **B. Respondent**

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

## **6. Discussion and Findings**

### Language of the Proceedings

The Complainant requests that the language of this proceeding be English, or at a minimum English and Russian, although the language of the registration agreement is Russian. The Complainant is a company located in the United States and conducts all of its business in English. The Complainant says that it has no direct business relationships in Russian Federation and is not familiar with the Russian language, in which it is unable to communicate. The Respondent has not made any submissions about the language of this proceeding although he was served in Russian as well as English.

The Complainant maintains that the disputed domain name is in English and that therefore the Respondent is likely to be able to communicate in that language. More relevantly, the Complainant points out that the language of the website to which the disputed domain name resolved on November 28, 2022 is English. The Complainant submits that it is not in a position to conduct these proceedings in Russian without a great deal of additional expense and delay due to the need for translation of the Complaint and the supporting annexes and points out that it has already incurred expenses to file the present complaint and to prosecute this proceeding. The Complainant argues that it would be unfair and inequitable to, and would place it under an undue burden if it were to be forced to conduct the proceeding in Russian.

The disputed domain name contains a highly distinctive trademark with a strong reputation in an English speaking jurisdiction and which the Respondent must have been fully aware of when choosing to register it. That he is familiar with English is further supported by the fact that the website to which the disputed domain name resolved is in English. The Respondent's failure to make any submission of any kind, including concerning language, would make it unfair and unnecessarily burdensome, considering his likely knowledge and understanding of English, to demand that the Complainant translate all annexes and submissions into Russian. This would in the circumstances impose a disproportionate and unnecessary burden.

Therefore the Panel holds that this proceeding is to be conducted in English.

### **A. Identical or Confusingly Similar**

The Complainant owns the registered trademark ZIONS BANK in the United States, and the disputed domain name includes ZIONS BANK in its entirety. It is well established that the gTLD extension is to be ignored for the purpose of the first element. Therefore, the disputed domain name is identical to the registered trademark of the Complainant. In any case, the threshold requirement that the registered trademark of the Complainant be recognizable in the disputed domain name is satisfied here.

Therefore, the Panel holds that the disputed domain name is identical to the registered trademark of the Complainant.

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

The Respondent has not filed or communicated any reply to the contentions of the Complainant. There is nothing before the Panel to indicate that the Respondent was making any *bona fide* use of the ZIONS BANK trademark or the disputed domain name or anything at all similar prior to registration. The Respondent is not known by the disputed domain name or ZIONS BANK or anything similar, and has not been licensed or authorized by the Complainant to use its registered mark in the disputed domain name or otherwise. The registered trademarks of the Complainant are highly distinctive and have been in long use, and it is very difficult to envisage any trade-related use of them by an unrelated party that would generate rights or legitimate interests in that party. The use of a disputed domain name incorporating third party marks, to establish a copycat website, as the Respondent has done here, is not such as to result in the granting of rights in the copyist.

Therefore, the Panel holds that the Respondent has no rights or legitimate interests in the disputed domain name.

### **C. Registered and Used in Bad Faith**

The Complainant's ZIONS BANK registered marks are very distinctive in relation to financial services and have been in long commercial use in that sector. It defies credulity to accept that the Respondent was unaware of the Complainant and its rights in the ZIONS BANK trademarks at the time of registration of the disputed domain name. In any case the latter resolved at one point to a website that copies those trademarks again, meaning that the Respondent deliberately and knowingly adopted the Complainant's marks for the purpose of deceiving consumers into thinking there is some connection between his online activities and the Complainant. This is an example of opportunistic bad faith registration, the opportunity being presented here by the availability for registration of the disputed domain name in the newly established ".fun" gTLD sphere. The Respondent has not answered any contentions of the Complainant and thus has proffered no justification for his use of the Complainant's marks. His has all the hallmarks of a bad faith attempt to derive advantage from misleading or deceiving consumers into thinking the website the disputed domain name resolves to is an official or authorized site of the Complainant. Given the dangers of such conduct in particular in the banking sector, this is clearly abusive.

Therefore, the Panel holds that the disputed domain name was registered and used in bad faith.

## **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 <zionsbank.fun> be transferred to the Complainant.

*/William A. Van Caenegem/*

**William A. Van Caenegem**

Sole Panelist

Date: February 27, 2023