

## **ADMINISTRATIVE PANEL DECISION**

ZipRecruiter, Inc. v. Nguyen Van Hieu, Van Hieu  
Case No. D2023-0543

### **1. The Parties**

The Complainant is ZipRecruiter, Inc., United States of America, represented by SafeNames Ltd., United Kingdom.

The Respondent is Nguyen Van Hieu, Van Hieu, Viet Nam.

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

The disputed domain name <ziprecruiter.click> is registered with GMO Internet, Inc. d/b/a Discount-Domain.com and Onamae.com (the “Registrar”).

### **3. Procedural History**

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on February 6, 2023. On February 7, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 8, 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 (GMO-Z.com Runsystem JSC) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 8, 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 February 9, 2023.

On February 8, 2023, the Center transmitted an email communication to the Parties in English and Japanese regarding the language of the proceeding. On February 9, 2023, the Complainant submitted a 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 Japanese of the Complaint, and the proceedings commenced on February 14, 2023. In accordance with the Rules, paragraph 5, the due date for Response was March 6, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on March 7, 2023.

The Center appointed Masato Dogauchi as the sole panelist in this matter on March 24, 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.

On March 24, 2023, as a response to the notification of the Panel appointment, the Center received an email communication from the Respondent's privacy service email address to the effect that the Respondent agreed to transfer the disputed domain name to the Complainant.

#### **4. Factual Background**

Whereas the Respondent has not submitted any formal response on the facts, the following information from the Complaint is found to be the factual background of this case.

The Complainant is an online recruitment company established in the United States of American in 2010, providing services for both individuals and commercial entities. The Complainant attracts more than seven million active job seekers and 10,000 new companies each month.

The Complainant's trademark portfolio including the terms ZIPRECRUITER in several countries, such as:

- United States of America Registration for ZIPRECRUITER No 3934310, registered on March 22, 2011;
- European Union Registration for ZIPRECRUITER No 015070873, registered on June 13, 2016; and
- United Kingdom Registration for ZIPRECRUITER No UK00915070873, registered on June 13, 2016.

The Complainant operates <ziprecruiter.com>, which received an average of more than 35 million visits per month between October and December, 2022. The Complainant also its mark in connection with other country code Top-Level Domains ("ccTLDs"), such as <ziprecruiter.co.nz>, <ziprecruiter.fr> and <ziprecruiter.us>.

The disputed domain name was registered on September 12, 2022, and does not resolve to an active website or webpage.

The Complainant sent a cease and desist letter to the Respondent via email on September 30, 2022, but did not receive any response from the Respondent. And, the Respondent activated mail exchange (MX) records for the disputed domain name.

#### **5. Parties' Contentions**

The Complainant's contentions are divided into three parts as follows:

First, the Complainant asserts that the disputed domain name is confusingly similar to its ZIPRECRUITER trademark, since the disputed domain name incorporates the ZIPRECRUITER trademark in its entirety. And, the generic Top-Level Domain ".click" should be disregarded under the confusing similarity test.

Second, the Complainant asserts that the Respondent has no rights or legitimate interests in respect of the

disputed domain name. To the best of the Complainant's knowledge, the Respondent does not have any trademark rights to the term ZIPRECRUITER. There is no evidence that the Respondent retains any unregistered trademark rights to the term ZIPRECRUITER. Neither has the Respondent received any license from the Complainant to use a domain name featuring the ZIPRECRUITER trademark.

Third, the Complainant asserts that the disputed domain name was registered and is being used in bad faith. With regard to the bad faith registration, the Complainant's ZIPRECRUITER trademark registrations predate the creation date of the disputed domain name by twelve years. And, it is inconceivable to believe the Respondent has chosen to register the disputed domain name, which has no descriptive or generic meaning, for any reason other than to target the Complainant's ZIPRECRUITER trademark. With regard to the Respondent's bad faith use of the disputed domain name, the Complainant pointed out that the Respondent had provided no evidence of any actual or contemplated good faith use by it of the disputed domain name. In addition, the Respondent's activation of mail exchange (MX) records for the disputed domain name shows the high risk that could be caused to unsuspected customers of the Complainant on receipt of emails from the disputed domain name. According to the Complainant, the above activation by the Respondent shows that the Respondent has likely engaged in or will engage at some point in phishing activity.

## **B. Respondent**

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

## **6. Discussion and Findings**

### **6.1. Preliminary Issue: Language of Proceedings**

In respect of the language to be used in the administrative proceeding, in accordance with the Rules, paragraph 11(a), the language of the administrative proceeding shall be, in principle, the language of the registration agreement. However, the same provision allows the panel to determine otherwise, having regard to the circumstances of the administrative proceeding.

In the present case, the Registrar has confirmed that the language of the Registration Agreement is Japanese.

The Panel determines that the language of this proceeding shall be English rather than Japanese on the following grounds:

- the Complainant requested to that effect;
- the Respondent did not reply to the notification in both English and Japanese by the Center that the Respondent was invited to indicate its objection, if any, to the Complainant's request for the language by the specified due date;
- the disputed domain name is not in Japanese script; and
- the use of Japanese language would produce undue burden on the Complainant in consideration of the absence of a Response from the Respondent.

### **6.2. Consent to Transfer**

If the Respondent expressed its consent the transfer the disputed domain name to the Complainant, the Panel may order the remedy requested by the Complainant solely on the basis of the Respondent's consent. See section 4.10 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)).

In this case, indeed that the Center received an email communication from the Respondent's privacy service email address to the effect that the Respondent agreed to transfer the disputed domain name to the Complainant, but it is not certain whether the Respondent really express this or not. Therefore, the Panel finds that it is necessary to discuss the merits of this case.

### **6.3. Substantive Matters**

In accordance with the Rules, paragraph 15(a), a panel shall decide a case on the basis of the statements and documents submitted and in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable. Since the Respondent has not made any substantive arguments in this case, the following decision is rendered on the basis of the Complainant's contentions and other evidence submitted by the Complainant.

In accordance with the Policy, paragraph 4(a), in order to qualify for a remedy, the Complainant must prove each of the following:

- (i) the disputed 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 disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

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

The last part of the disputed domain name ".click" represents one of the generic Top-Level Domains, which is irrelevant in the determination of this requirement. The first part of the disputed domain name is identical with the Complainant's ZIPRECRUITER trademark.

Therefore, the Panel finds that the disputed domain name is identical to the trademark in which the Complainant has rights. The above requirement provided for in paragraph 4(a)(i) of the Policy is accordingly satisfied.

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

There is no evidence at all that shows the Respondent is commonly known by the name "ziprecruiter". The Respondent is not affiliated with the Complainant or authorized or licensed to use the Complainant's ZIPRECRUITER trademark.

Since the Respondent did not reply to the Complainant's contentions in this proceeding, the Panel finds on the available record that the Complainant has established an unrebutted *prima facie* case that the Respondent has no rights or legitimate interests in respect of the disputed domain name. See section 2.1 of the [WIPO Overview 3.0](#).

Moreover, UDRP panels have found that domain names identical to a complainant's trademark carry a high risk of implied affiliation. See section 2.5.1 of the [WIPO Overview 3.0](#).

The above requirement provided for in paragraph 4(a)(ii) of the Policy is accordingly satisfied.

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

Since the Complainant is a large online recruitment company and doing business since 2010, it is highly unlikely that the Respondent would not have known of the Complainant's right in the trademark at the time of registration of the disputed domain name.

The Panel notes that the disputed domain name appears to be passively held. Noting the reputation of the Complainant's mark, the failure of the respondent to submit a formal response or to provide any evidence of actual or contemplated good-faith use, and the implausibility of any good faith use to which the domain name may be put, the Panel finds that this passive holding does not prevent a finding of bad faith.

Moreover, the fact that the Respondent's activation of mail exchange (MX) records for the disputed domain name means that the Respondent could potentially use the disputed domain name for fraudulent purposes such as email scams.

The Respondent did not reply to the Complaint at all in this proceeding. The Panel finds that this further corroborates that the disputed domain name has been registered in bad faith and is being used in bad faith. The above requirement provided for in paragraph 4(a)(iii) of the Policy is accordingly satisfied.

In conclusion, all three cumulative requirements as provided for in paragraph 4(a) of the Policy are determined to be satisfied.

## **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 <ziprecruiter.click> be transferred to the Complainant.

*/Masato Dogauchi/*

**Masato Dogauchi**

Sole Panelist

Date: March 26, 2023