

## **ADMINISTRATIVE PANEL DECISION**

Zydus Lifesciences Limited v. Abdullah Kayani, ZYDUS HEALTHCARE L.L.C  
Case No. DAE2024-0004

### **1. The Parties**

The Complainant is Zydus Lifesciences Limited, of India, represented by United Trademark & Patent Services, United Arab Emirates (“UAE”).

The Respondent is Abdullah Kayani, ZYDUS HEALTHCARE L.L.C., of UAE (“the Respondent”).

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

The disputed domain name <zydushealthcare.ae> is registered with AE Domain Administration (.aeDA).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 13, 2024. On March 14, 2024, the Center transmitted by email to AE Domain Administration (.aeDA) a request for registrant verification in connection with the disputed domain name. On March 15, 2024, AE Domain Administration (.aeDA) 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 UAE Domain Name Dispute Resolution Policy for .ae domain names (“UAE DRP”) approved by .aeDA (the “Policy”), the Rules for UAE Domain Name Dispute Resolution Policy – UAE DRP (the “Rules”), and the Supplemental Rules for UAE Domain Name Dispute Resolution Policy – UAE DRP (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2(a) and 4(a), the Center formally notified the Respondent of the Complaint, and the proceedings commenced on March 20, 2024. In accordance with the Rules, paragraph 5(a), the due date for Response was April 9, 2024. The Respondent did not submit a formal Response.

On March 18, 2024, and March 20, 2024, the Respondent sent email communications to the Center asking for “the reactivation of the domain name”. (See further under section 5B below.) On April 19, 2024, the Center notified the Parties of the Commencement of Panel Appointment Process.

On April 20, 2024, the Respondent transmitted an email communication to the Center, formally requesting a 15-day extension to submit a response. Subsequently, the Center acknowledged the receipt of this communication and informed the Respondent that due to the elapsed response due date, the request would

be forwarded to the Panel for their review and discretionary consideration. (See further under section 6A below.)

The Center appointed Adam Taylor as the sole panelist in this matter on April 26, 2024. 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 part of an international pharmaceutical group that has traded under the marks CADILA and ZYDUS since the 1990s, rebranding itself purely as ZYDUS in February 2022. The annual revenue of the Complainant's group is around USD 2.2 billion. It has some 23,000 employees worldwide.

The Complainant owns many registered trade marks for ZYDUS including Indian trade mark No. 720988, registered on September 2, 1996, in class 2 and UAE trade mark No. 312784, registered on September 25, 2019, in class 5.

The Complainant operates a website at "www.zyduslife.com".

According to the Registrar, the disputed domain name was created on August 15, 2022 and registered on August 14, 2023.

The disputed domain name formerly resolved to a website that offered home doctor services under the name "Zydus Healthcare" including a "Zydus Healthcare LLC" copyright notice dated 2022.

According to a UAE "Business Licence" 11933220/1090808 produced by the Complainant, as of September 28, 2022, Zydus Healthcare LLC, a limited liability company, was licensed as a "Home Health Care Center".

On or around August 28, 2023, the Complainant sent a legal letter to the Respondent demanding that the Respondent undertake, amongst other things, to cease all use of the term "Zydus" including removal of "Zydus" from its corporate name and deletion/transfer of the disputed domain name.

By a modification of the above business licence dated October 2, 2023, Call My Doctor Health Care LLC had become licensed to supply the "Home Health Care Center" service as above. The licence included an "Est. Date" of August 31, 2022, and an "Expiry Date" of August 30, 2024. The email address and fax numbers shown on the licence remained unchanged.

According to the Complainant, on October 30, 2023, the Respondent telephoned the Complainant's representative and agreed to sign the undertaking sought in the Complainant's letter of August 28, 2023. In an email dated the same date, the Complainant emailed the undertaking to the Respondent "[a]s discussed in our recent call" and asked the Respondent to sign and return it. Despite chasers from the Complainant on November 3, 6, and 24, 2023, the Respondent never did so.

When reviewed by the Panel on May 10, 2024, the disputed domain name redirected to a website at "www.doctorhomevisit.ae", branded "Call My Doctor".

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

##### **A. Complainant**

The Complainant contends that it has satisfied each of the elements required under the Policy for transfer of the disputed domain name.

## **B. Respondent**

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

On March 18, and 20, 2024, the Respondent sent identical emails to the Center, stating that the Respondent could not access the disputed domain name, that it understood "that there were some trade mark disputes with our domain name" but that the Respondent needed its data back. The Respondent requested reactivation of the disputed domain name in the meantime "so that we can also get some time to move legally from our side". The emails were signed "Alpha Medical Laboratory", with an address in Dubai.

## **6. Discussion and Findings**

Under the Policy, the Complainant is required to prove on the balance of probabilities that:

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

### **A. Extension of time for filing a Response**

By email dated April 20, 2024, the Respondent requested a 15-day extension of the deadline "[t]o ensure the quality and completeness of our response", because the Respondent was allegedly experiencing difficulties in obtaining legal advice due to public holidays in the UAE.

Paragraph 10(c) of the Rules requires the Panel to ensure that the administrative proceeding takes place with due expedition, adding that the Panel may extend a period of time fixed by the Rules "in exceptional cases". Paragraph 10(d) of the Rules provides that the Panel shall consider the admissibility, relevance, materiality and weight of the evidence.

The Panel notes that:

1. the Respondent's extension request was only made 11 days after the Response due date;
2. the Respondent's email to the Center of March 18, 2024, indicates that the Respondent had had notice of the Complaint at least one month before making its extension request; and
3. the Respondent has not provided the name and date(s) of the alleged UAE public holiday, let alone explained why that public holiday prevented the Respondent from taking the relevant legal advice over the period of a month or so since the Respondent became aware of the Complaint.

Accordingly, the Panel considers that the Respondent has failed to demonstrate exceptional circumstances that would warrant an extension of time for the Response.

### **B. Identical or Confusingly Similar**

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trade mark and the disputed domain name. WIPO Overview of WIPO Panel Views on

Selected UDRP Questions, Third Edition<sup>1</sup>, ([“WIPO Overview 3.0”](#)), section 1.7.

The Complainant has shown rights in respect of a trade mark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms (here, “healthcare”) may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The Panel finds the first element of the Policy has been established.

### **C. Rights or Legitimate Interests**

Paragraph 6(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognised that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of “proving a negative”, requiring information that is often primarily within the knowledge or control of the respondent. 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 (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant’s prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

Panels tend to assess claimed respondent rights or legitimate interests in the present, i.e., with a view to the circumstances prevailing at the time of the filing of the complaint. [WIPO Overview 3.0](#), paragraph 2.11.

For the following reasons, the Panel finds that the Respondent has not been commonly known by the disputed domain name for the purposes of paragraph 6(c)(ii) of the Policy.

First, the Complainant has established that its highly-distinctive ZYDUS mark has acquired a substantial reputation in the health industry.

Second, while the Respondent’s corporate name is, or was, Zydus Healthcare LLC., and it formerly traded as “Zydus Healthcare”, the Complainant asserts, and the evidence suggests, that the Respondent agreed to sign an undertaking that required it to cease all use of the term “Zydus” including removal of “Zydus” from its corporate name and deletion/transfer of the disputed domain name.

While the Respondent never signed that undertaking, nonetheless, following receipt of the Complainant’s

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<sup>1</sup> Although [WIPO Overview 3.0](#) is directed to the Uniform Domain Name Dispute Resolution Policy (“UDRP”), given the similarity between the UDRP and the UAE DRP, it is appropriate to have regard to these principles except to the extent that the Policy diverges from the UDRP.

legal letter, the Respondent has rebranded its service to “Call My Doctor” including changing its business licence, and redirecting the disputed domain name to a different domain name. See section 4 above.

While it is not entirely clear whether the Respondent had completely changed its business/trading names by the date the Complaint was filed, the Panel nonetheless considers that the Respondent cannot be said to have been “commonly known by” the disputed domain name for the purposes of demonstrating rights or legitimate interests under the Policy. In particular, the evidence before the Panel strongly indicates that the Respondent adopted and used both its corporate name and the disputed domain name as part of a common scheme designed to capitalise on the fame of the Complainant’s highly distinctive mark, of whose existence the Respondent was likely well aware.

For the same reasons, the Panel does not consider that the above circumstances constitute a bona fide offering of goods and services by the Respondent for the purposes of paragraph 6(c)(i) of the Policy.

Nor is there any evidence that paragraph 6(c)(iii) of the Policy are relevant in the circumstances of this case.

The Panel finds the second element of the Policy has been established.

#### **D. Registered or is Being Used in Bad Faith**

Paragraph 6(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered or used in bad faith, but other circumstances may be relevant in assessing whether a respondent’s registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

The Panel considers that the scenario whereby the Respondent registered and used the disputed domain name outlined in section 6C above amounts to registration and/or use of the disputed domain name in bad faith.

The Panel also notes that the Respondent has not filed a formal Response to deny the Complainant’s assertions of bad faith, let alone to put forward any legitimate explanation for its selection and use of the disputed domain name.

The Panel finds that the Complainant has established the third element of the Policy.

#### **7. Decision**

For the foregoing reasons, in accordance with paragraphs 6(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name <zydushealthcare.ae> be transferred to the Complainant.

*/Adam Taylor/*

**Adam Taylor**

Sole Panelist

Date: May 10, 2024