

## **ADMINISTRATIVE PANEL DECISION**

LBMZ Securities, Inc dba Zacks Trade v. James Dev  
Case No. D2025-3061

### **1. The Parties**

The Complainant is LBMZ Securities, Inc dba Zacks Trade, United States of America (“United States”), represented by Latimer LeVay Fyock LLC, United States.

The Respondent is James Dev, Nigeria.

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

The Disputed Domain Name <zackstrade.trade> is registered with Dynadot Inc (the “Registrar”).

### **3. Procedural History**

A Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 31, 2025. On August 4, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On August 5, 2025, 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 (Redacted for Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 5, 2025, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. On August 11, 2025 the Complainant accepted the Center’s invitation to amend the name of the Respondent to match the registrant information provided by the Registrar. The Complaint as amended is hereafter referred to as the Complaint.

The Center verified that the Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy”), 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 August 12, 2025. In accordance with the Rules, paragraph 5, the due date for Response was September 1, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 3, 2025.

The Center appointed Philip N. Argy as the sole panelist in this matter on September 8, 2025. 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.

The Panel is satisfied that all other procedural requirements have been met.

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

The following facts, taken from the Complaint, remain uncontested.

The Complainant is an online trading brokerage offering training tools, low margin rates, alive customer service team, and a variety of investment research publications. It is a champion for self-directed investors reflecting the strategy of its founder, Len Zacks who, in 1978, published a paper that documented an innovative investment approach through analysing earnings estimate revisions to predict stock movements.

The Complainant holds trademark registrations in the United States, European Union and United Kingdom for ZACKS TRADE and minor variants. The earliest registration for which evidence has been filed is United States Trademark Registration no. 7153858 for ZACKS TRADE registered on September 5, 2023. However, the Complainant has been the licensee of the <zackstrade.com> domain name since May 15, 2008.

The Disputed Domain Name was registered by the Respondent on June 19, 2025 for a licence term of 12 months. According to the evidence, at the time the Complaint was lodged, the Disputed Domain Name resolved to a webpage for a company which claims to be called “Zackstrade” with a “Zackstrading Company” logo claiming to be a business established in 2013. This webpage emulates the Complainant’s legitimate website but requires payment in bitcoin instead of conventional currency. At the time of preparation of this Decision, the Disputed Domain Name did not resolve to any webpage when entered into a browser by the Panel. However, there is an MX record, thus potentially enabling the Respondent to send and receive emails from the Disputed Domain Name.

#### **5. Parties’ Contentions**

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

The Complainant contends that:

- a) The Disputed Domain Name is confusingly similar to ZACKS TRADE, being a trademark in which it has rights;
- b) The Respondent has no rights or legitimate interests in respect of the Disputed Domain Name; and
- c) The Disputed Domain Name was registered and is being used in bad faith.

In relation to the first element of the Policy the Complainant notes that the Disputed Domain Name contains its ZACKS TRADE trademark and nothing else. It submits that the Top-Level Domain (“TLD”) “.trade” does not negate a finding of identity or confusing similarity under the first element as it is a standard registration requirement<sup>1</sup>.

In relation to the second element of the Policy the Complainant notes that the Respondent does not have any affiliation, association, sponsorship or connection with the Complainant and has not been authorised, licensed or otherwise permitted by the Complainant to use its trademarks. It also notes that the Respondent is not commonly known by the Disputed Domain Name and has not acquired any trademark rights in ZACKS TRADE.

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<sup>1</sup> WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ([“WIPO Overview 3.0”](#)), section 1.11

The Complainant also submits that, because the Respondent registered and uses the Disputed Domain Name to unlawfully advertise for a company called Zacks Trade claiming to offer identical services to those offered by the Complainant, it does not have rights or legitimate interest in [sic] the Disputed Domain Name under paragraph 4(a)(ii) of the Policy.

In relation to the third element of the Policy the Complainant relies on paragraph 4(b)(iv) and notes that the Disputed Domain Name resolves to a website which claims to be for a company called Zacks Trade which is classic passing off conduct and cannot constitute a bona fide offering of goods or services<sup>2</sup>. Furthermore, a Respondent's use of a domain name is not considered fair if it falsely suggests affiliation with the trademark owner<sup>3</sup>.

The Complainant particularly notes that the MX-record indicates that the Disputed Domain Name may be used for fraudulent email communications. As noted by prior panels, "given the Respondent's lack of rights or legitimate interests in the Disputed Domain Name, and the confusing similarity of the Disputed Domain Name to the Complainant's trademark, any use of the Disputed Domain by the Respondent for email communication would carry a high risk of implied affiliation with the Complainant [and would constitute] use in bad faith"<sup>4</sup>.

## **B. Respondent**

The Respondent did not file a Response nor reply in any other way to the Complaint.

## **6. Discussion and Findings**

Despite the Respondent's failure to file a Response the onus remains on the Complainant to make out each element of the Policy on the balance of probabilities.

### **A. 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 straightforward comparison between the Complainant's trademark and the disputed domain name<sup>5</sup>.

The Complainant has rights as the registered proprietor of ZACKS TRADE word marks in multiple jurisdictions, all of which pre-date the registration of the Disputed Domain Name. Furthermore, in the Panel's view, its use of the domain name <zackstrade.com> for more than 17 years confers common law trademark rights in ZACKS TRADE for the purpose of the Policy.

The entirety of the Complainant's mark is reproduced within the Disputed Domain Name. As is conventional, and reflected in [WIPO Overview 3.0](#), section 1.11, the TLD ".trade" may be ignored. In any event, it is superfluous in the text string comparison that the first element of the Policy requires in this case.

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

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

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in respect of a disputed domain name.

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<sup>2</sup> [WIPO Overview 3.0](#), section 2.9

<sup>3</sup> [WIPO Overview 3.0](#), section 2.5.1

<sup>4</sup> *Tetra Laval Holdings & Finance S.A. v. Himali Hewage*, WIPO Case No. [D2020-0472](#)

<sup>5</sup> [WIPO Overview 3.0](#), section 1.7

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<sup>6</sup>.

Having reviewed the evidence filed with the Complaint, the Panel finds that the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in respect of the Disputed Domain Name – despite the self-serving use of a “Zackstrading Company” logo on the website to which the Disputed Domain Name apparently resolved at some stage. 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 respect of the Disputed Domain Name, such as those set out in the Policy (or otherwise).

Many panels have held that the use of a domain name for unlawful activity can never confer rights or legitimate interests on a respondent. Here the Respondent’s passing off conduct, as well as the setting up of MX records (which the Panel interprets as showing an unambiguous intent to use the Disputed Domain Name for email use) falls squarely within those principles<sup>7</sup>.

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

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

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) establishes circumstances that, if found by the Panel to be present, is evidence of the registration and use of a domain name in bad faith.

In the present case, the Panel accepts the Complainant’s contentions and finds them fully supported by the evidence. Plainly, the Respondent’s attempt to pass off as the Complainant and requiring payment in bitcoin is a red flag that the Respondent is engaging in bad faith conduct, and the registration of the Disputed Domain Name and the setting up of MX records can have had no legitimate purpose – certainly the Respondent has not proffered any.

The Panel is concerned at the potential fraudulent use of the Disputed Domain Name for phishing or other malevolent email purposes. The Panel is comfortably satisfied that the Respondent’s registration and use of the Disputed Domain Name constitutes bad faith under the Policy.

The Panel finds that the Complainant has established the third element of 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 <zackstrade.trade> be transferred to the Complainant.

*/Philip N. Argy/*

**Philip N. Argy**

Sole Panelist

Date: September 23, 2025

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<sup>6</sup> [WIPO Overview 3.0](#), section 2.1

<sup>7</sup> [WIPO Overview 3.0](#), section 2.13.1