

ADMINISTRATIVE PANEL DECISION

Zember LLC v. Domain Manager, eWeb Development Inc.
Case No. D2025-5211

1. The Parties

The Complainant is Zember LLC, United States of America (“United States”), internally represented.

The Respondent is Domain Manager, eWeb Development Inc., Canada, represented by Muscovitch Law P.C., Canada.

2. The Domain Name and Registrar

The disputed domain name <zember.com> is registered with Alpine Domains Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 12, 2025. On December 15, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 17, 2025, 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 sent an email communication to the Complainant on December 23, 2025, providing the additional registrant and contact information disclosed by the Registrar, and requesting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on December 24, 2025.

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 of the Complaint, and the proceedings commenced on December 29, 2025. In accordance with the Rules, paragraph 5, the due date for Response was January 18, 2026. The Response was filed with the Center on January 14, 2026.

The Center appointed Andrea Mondini, David H. Bernstein and W. Scott Blackmer as panelists in this matter on February 10, 2026. The Panel finds that it was properly constituted. Each member of 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 a limited liability company that was formed on October 10, 2022, and operates a commercial real estate development and leasing business under the ZEMBER mark.

The Complainant owns United States trademark registration No. 7503718 for ZEMBER for various real estate-related services, which was registered on September 10, 2024, and claims first use in commerce as of at least June 8, 2024. The Complainant has priority back to December 2, 2022, which is the date it filed its application. The Complainant holds the domain name <zembergroup.com>, which hosts its main website.

The Respondent is a corporation active in the website development, hosting and branding business. According to its website, the Respondent also manages a portfolio of “premium brandable domain names for development and customer use”.

The Respondent registered the disputed domain name on November 5, 2010.

The Complainant's principal engaged in extensive correspondence with the Respondent between June 2016 and December 2025, attempting to purchase the disputed domain name, but the parties did not agree on a price.

According to the evidence submitted with the Complaint, for more than a decade, the disputed domain name resolved to parked or sales-oriented landing pages.

5. Parties' Contentions

A. Complainant

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

Notably, the Complainant contends as follows:

The Complainant owns trademark rights in the ZEMBER mark. The disputed domain name is identical to the trademark in which the Complainant has rights because the generic Top-Level Domain (“gTLD”) “.com” is disregarded for purpose of comparison under the Policy.

The Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent is not commonly known by the disputed domain name, and there is no evidence of the Respondent's use, or demonstrable preparation to use, the disputed domain name in connection with a bona fide offering of goods and services. The correspondence with the Respondent confirms that the disputed domain name has been treated as a monetizable asset rather than as a source identifier for any goods or services.

The Complainant does not allege that the Respondent registered the disputed domain name with knowledge of the Complainant's trademark. Rather, the Complainant relies on the “Respondent's longstanding sale-only and monetizing conduct” and asserts that this constitutes bad faith use.

B. Respondent

The Respondent contends that the Complaint must be dismissed for the following reasons:

The disputed domain name registration long-predates the existence of the Complainant and its trademark rights. The Complainant was fully aware of this and therefore expressly “does not allege that the Respondent registered the disputed domain name with knowledge of the Complainant’s trademark”. This admission by itself renders the Complaint meritless. The Respondent warned the Complainant twice, on December 12, 2025, and on December 31, 2025, that, for this reason, the Complaint would fail, but the Complainant ignored this and went ahead with these proceedings.

The extensive correspondence between the parties demonstrates that the Complainant knew as early as 2016, long before the Complainant adopted its corresponding mark, that the disputed domain name was already taken and that the parties were unable to agree on the price.

The Respondent is in the business of registering domain names that are surnames, descriptive, unique and brand-able, acronyms, or are otherwise non-infringing, and that have potential general appeal to new entrants to the marketplace. The Respondent offers a service wherein a customer can either purchase a domain name from the Respondent, or the customer can alternatively purchase a website development package along with a domain name. “Zember” is not only a made-up term but is also a surname and was registered by the Respondent because it was capable of lawful use by potential customers of the Respondent.

The Respondent’s legitimate interest stems from being the first person to register the disputed domain name at a time when it was not subject to any trademark rights held by the Complainant. The Respondent’s business model has been upheld in previous UDRP proceedings to be bona fide and legitimate.

The Respondent’s registration of the disputed domain name precedes the Complainant’s existence as well as its trademark rights. A finding of bad faith registration cannot be made with respect to a trademark that did not exist at the time of registration of the disputed domain name.

The Respondent requested the Panel to make a finding of Reverse Domain Name Hijacking (“RDNH”).

6. Discussion and Findings

According to paragraph 4(a) of the Policy, in order to succeed, a complainant must establish each of the following elements:

- (i) the disputed domain name is identical or confusingly similar to the trademark or service mark in which the complainant has rights;
- (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

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 trademark and the disputed domain name.” WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ([“WIPO Overview 3.0”](#)), section 1.7.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy because it owns a valid trademark registration in the United States. [WIPO Overview 3.0](#), section 1.2.1. The registration date of the trademark is considered further below in relation to the third element of paragraph 4(a) of the Policy.

The Panel finds the entirety of the mark is reproduced within the disputed domain name.

The addition of the gTLD “.com” in the disputed domain name is a standard registration requirement and as such may be disregarded under the confusing similarity test under the Policy, paragraph 4(a)(i). [WIPO Overview 3.0](#), section 1.11.1.

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

B. Rights or Legitimate Interests

Pursuant to paragraph 4(c) of the Policy, a Respondent may demonstrate its legitimate rights or interest in a domain with evidence that:

- (i) before any notice of the dispute, Respondent used, or prepared to use, the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services;
- (ii) Respondent (as an individual, business, or other organization) has been commonly known by the domain name; or
- (iii) Respondent is making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

As a preliminary matter, the record contains no evidence suggesting that the Respondent is commonly known by the disputed domain name within the meaning of paragraph 4(c)(ii) of the Policy. Nor has the Respondent submitted any evidence that it is making a legitimate noncommercial or fair use of the disputed domain name pursuant to paragraph 4(c)(iii) of the Policy. The only remaining question is whether Respondent uses the disputed domain in connection with a bona fide offering of goods or services under paragraph 4(c)(i). The Panel unanimously finds that it does.

The Respondent is in the business of inter alia web hosting and website development. As part of that business it registers, maintains, and offers for sale on its website domain names that are coined or made-up, geographic, surnames, combinations of common dictionary words, and acronyms that have potential general appeal to new entrants to the marketplace. Like its predecessors, this Panel accepts that the Respondent's business model can give rise to rights or a legitimate interest in the domain name as a bona fide offering for the purposes of paragraph 4(c)(i) of the Policy—so long as those domain names are registered for the bona fide purpose of investing in and selling domain names without intent to target the trademark of an existing trademark owner. See e.g. *Kevac S.r.l v. Eweb Development Inc.*, WIPO Case No. [D2019-2991](#); *Fresenius Kabi S.A. v. Domain Manager, EWEB Development, Inc.*, WIPO Case No. [D2018-0491](#).

Here, as explained further in Section C, there is no evidence to suggest the Respondent targeted the Complainant's trademark in registering <zember.com>. The Panel is particularly persuaded by evidence submitted by Respondent that Zember is a surname and that it has registered several other “nonsense” domains phonetically similar to the disputed domain such as, <famber.com>, <janber.com>, <jenber.com>, <mamber.com>, <pamber.com>, <senber.com>, and <zemby.com>. See *Sanofi v. Domain Manager, eWeb Development Group / ProxyTech Privacy Services Inc. / Privacy Manager*, WIPO Case No. [D2014-1185](#). All of these coined domain names were registered between 2008 and 2011, well before Complainant registered its trademark. Accordingly, the Panel finds that the Respondent has adequately proven that it has a legitimate right and interest in the disputed domain name.

C. Registered and Used in Bad Faith

The Complainant does not allege that the Respondent registered the disputed domain name with knowledge of the Complainant's trademark. Rather, the Complainant asserts that the “Respondent's longstanding sale-only and monetizing conduct” constitutes bad faith use of the disputed domain name.

The Panel notes, however, that the third element of paragraph 4(a) of the Policy contains two requirements that apply conjunctively. A complainant must show both that the disputed domain name has been registered in bad faith and also that it is being used in bad faith.

In respect of registration in bad faith, the Complainant must show that the Respondent had the Complainant's rights in mind when it registered the disputed domain name and that it proceeded with bad faith intent to target such rights. It follows that, if the disputed domain name was created by the Respondent before the Complainant's trademark rights had accrued, absent any nascent or as yet unregistered rights of the Complainant, the Respondent cannot have registered the disputed domain name in bad faith (see section 3.8 of the [WIPO Overview 3.0](#)).

In the present case, the Respondent registered the disputed domain name in 2010, i.e., many years before the Complainant was formed, in 2022, and registered its trademark, in 2024. The Complainant expressly admits that it does not allege that the Respondent registered the disputed domain name with knowledge of the Complainant's trademark. Under such circumstances, the Complainant cannot possibly claim that the disputed domain name was registered in bad faith by targeting the Complainant's trademark.

The Complainant has not discharged the burden of showing the disputed domain name was registered in bad faith.

Nor has the Complainant shown bad faith use of the disputed domain name. For the reasons articulated above, the Respondent has shown rights or legitimate interests in the disputed domain name for purposes of investing and selling. Since the Respondent has those rights, the Respondent is entitled to sell the disputed domain name for an amount that the Respondent believes is appropriate. The Complainant has not introduced any evidence that would support a finding that the Respondent's conduct or pricing would support an inference of bad faith use. Contrary to the Complainant's assertions, there is nothing illegitimate per se about the monetization of domain names.

Accordingly, the third condition of paragraph 4(a) of the Policy has not been fulfilled, and the Complaint must fail.

D. Reverse Domain Name Hijacking (“RDNH”)

Paragraph 15(e) of the Rules provides that, if after considering the submissions, the Panel finds that the Complaint was brought in bad faith, for example in an attempt at RDNH or to harass the domain-name holder, the Panel shall declare in its decision that the Complaint was brought in bad faith and constitutes an abuse of the administrative proceeding. Under the UDRP Rules, RDNH is defined as “using the UDRP in bad faith to deprive a registered domain-name holder of a domain name.” [WIPO Overview 3.0](#), section 4.16. Reasons for finding RDNH include “facts which demonstrate that the complainant knew it could not succeed as to any of the required three elements – such as... clear knowledge of a lack of respondent bad faith such as registration of the disputed domain name well before the complainant acquired trademark rights.” [WIPO Overview 3.0](#), section 4.16. The mere lack of success of the complaint is not, on its own, sufficient to constitute RDNH. [WIPO Overview 3.0](#), section 4.16.

As explained above, given that the Complainant came into existence and registered its trademark many years after the Respondent registered the disputed domain name, there could not have been bad faith registration in bad faith by targeting the Complainant's trademark. That means that the Complaint was doomed to failure, as the Respondent's counsel pointed out twice in his correspondence with the Complainant. This issue is not close or subject to ambiguity: Both the Policy and the [WIPO Overview 3.0](#) make it clear that bad faith can only be found if the Respondent acted in bad faith towards the Complainant and its trademark rights. Accordingly, the Panel finds that the Complaint was brought in bad faith and constitutes an attempt at RDNH.

7. Decision

For the foregoing reasons, the Complaint is denied. Moreover, the Panel finds that the Complaint has been brought in bad faith and constitutes an attempt at Reverse Domain Name Hijacking.

/Andrea Mondini/

Andrea Mondini
Presiding Panelist

/David H. Bernstein/

David H. Bernstein
Panelist

/W. Scott Blackmer/

W. Scott Blackmer
Panelist

Date: February 14, 2026