

ADMINISTRATIVE PANEL DECISION

Akzo Nobel N.V. v. guo yin
Case No. D2023-0387

1. The Parties

The Complainant is Akzo Nobel N.V., Netherlands, internally represented.

The Respondent is guo yin, Macao, China.

2. The Domain Name and Registrar

The disputed domain name <akzonbel.com> (the “Domain Name”) is registered with DropFall.com Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 27, 2023. On January 27, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On January 31, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant (PERFECT PRIVACY, LLC) and contact information for the Domain Name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on February 1, 2023, providing the registrant and contact information behind the privacy service as disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amendment to the Complaint on February 3, 2023.

The Center verified that the Complaint together with the amendment to 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 February 7, 2023. In accordance with the Rules, paragraph 5, the due date for Response was February 27, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 28, 2023.

The Center appointed Mathias Lilleengen as the sole panelist in this matter on March 7, 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 to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant is a global paints and coatings company with consumer recognition worldwide.

The Complainant owns trademark registrations in AKZONOBEL, such as Benelux trademark registration number 849141 registered on August 20, 2008, and International trademark registration number 1064677, registered on June 25, 2010.

The Complainant has registered the domain name <akzonobel.com>.

According to the Complainant, the Respondent registered the Domain Name on May 4, 2022. At the time of drafting the Decision, the Domain Name resolved to a webpage in Chinese language with pornographic content.

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 Domain Name. The Complainant provides evidence of trademark registrations and argues that the Domain Name is identical to the Complainant's registered trademarks, company name and domain name, save the omission of the letter "o".

The Complainant argues that the Respondent has no rights or legitimate interests in respect of the Domain Name. The Respondent reproduces the Complainant's trademark in the Domain Name without any license or authorization from the Complainant. The Complainant asserts that the Respondent is not making any commercial or fair use of the Domain Name. As the Respondent has no *bona fide* reason or evidence in support to the contrary, it must be concluded the Respondent had no fair intention when registering the Domain Name.

The Complainant believes that the Respondent was aware of the Complainant and its trademark when the Respondent registered the Domain Name. The Domain Name has resolved to a webpage with pornographic content. This is further evidence of bad faith. The same goes for the fact that the registration is a deliberate misspelling of the Complainant's trademark, and such typosquatting is evidence of bad faith.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The first element functions primarily as a standing requirement. The 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 established that it has rights in the trademark AKZONOBEL. In this case, The Domain Name is almost identical to the Complainant's trademark, save the omission of the letter "o". This does not prevent a finding of confusing similarity between the Domain Name and the trademark. For the purpose of assessing under paragraph 4(a)(i) of the Policy, the Panel may ignore the generic Top-Level Domain ("gTLD"); see [WIPO Overview 3.0](#), section 1.11.

The Panel finds that the Domain Name is confusingly similar to a trademark in which the Complainant has rights in accordance with paragraph 4(a)(i) of the Policy.

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 a disputed domain name.

While the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible 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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element.

Based on the evidence, the Respondent is not affiliated or related to the Complainant in any way. There is no evidence that the Respondent has registered the Domain Name as a trademark or acquired trademark rights. There is no evidence of the Respondent's use of, or demonstrable preparations to use, the Domain Name or a name corresponding to the Domain Name in connection with a *bona fide* offering of goods or services. On the contrary, the use of the Domain Name to set up a pornographic web page is rather evidence of bad faith, see below. Moreover, the composition of the Domain Name incorporating the Complainant's trademark almost in its entirety with a sole common misspelling (the omission of the letter "o"), points to an intention to confuse Internet users seeking or expecting the Complainant.

The Panel finds that the Complainant has made out an un rebutted *prima facie* case. Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in respect of the Domain Name in accordance with paragraph 4(a)(ii) of the Policy.

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) of the Policy establishes circumstances, in particular but without limitation, that if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

It is probable that the Respondent was aware the Complainant and its prior rights, as the composition of the Domain Name is the deliberate misspelling or typosquatting of the Complainant's trademark.

The use of the Domain Name (a web page with pornographic content), indicates that the Respondent is using the Domain Name for commercial gain. This is clear evidence of bad faith.

For the reasons set out above, the Panel concludes that the Domain Name was registered and is being used in bad faith, within the meaning of paragraph 4(a)(iii) 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 Domain Name <akzonbel.com> be transferred to the Complainant.

/Mathias Lilleengen/

Mathias Lilleengen

Sole Panelist

Date: March 10, 2023