

ADMINISTRATIVE PANEL DECISION

Zacks Investment Research, Inc. v. Judy Onghai
Case No. D2024-5356

1. The Parties

The Complainant is Zacks Investment Research, Inc., United States of America ("United States"), represented by Latimer LeVay Fyock LLC, United States.

The Respondent is Judy Onghai, United States.

2. The Domain Name and Registrar

The disputed domain name <zzacks.com> is registered with CloudFlare, Inc. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on December 31, 2024. On January 2, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 3, 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 (Data Redacted) and contact information in the Complaint.

The Center sent an email communication to the Complainant on January 8, 2025, 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 amendment to the Complaint on January 10, 2025.

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 January 16, 2025. In accordance with the Rules, paragraph 5, the due date for Response was February 5, 2025. The Respondent sent a number of informal email communications to the Center on January 16 and January 22, 2025 but did not submit any substantive response. Accordingly, the Center notified the Commencement of Panel Appointment Process on February 7, 2025.

The Center appointed Evan D. Brown as the sole panelist in this matter on February 10, 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.

On February 12, 2025, the Respondent sent an additional email communication to the Center. On February 19, 2025, the Complainant sent an email to the Center addressing the assertions the Respondent had made in the February 12 email.

4. Factual Background

The Complainant is in the business of providing independent research and investment related content. It owns the mark ZACKS and various other formatives of that mark, which it has used in connection with its services since at least as early as 1978, and for which it owns a trademark registration in the United States (Reg. No. 5,652,428, registered on January 15, 2019).

According to the registrar, the disputed domain name was registered on July 24, 2024. At the time of the filing of the Complaint, the disputed domain name resolved – depending on whether one was using a desktop or mobile browser – to websites providing credit reporting information or promoting a trading and financial company.

In its informal communications to the Center of February 12, 2025 (well after the due date for the Response), the Respondent asserted that it is a website marketing company and that a friend of one of its clients (such friend purporting to be the owner of an auto dealership in Florida named Zacks Motors) asked it to register the disputed domain name on the auto dealership's behalf.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name is identical or confusingly similar to the Complainant's trademark; that the Respondent has no rights or legitimate interests in respect of the disputed domain name; and that the disputed domain name was registered and is being used in bad faith.

B. Respondent

The Respondent appears to generally disagree with the Complainant's assertions, arguing that it registered the disputed domain name at the request of a third party and did not do so in bad faith.

6. Discussion and Findings

To succeed, the Complainant must demonstrate that all of the elements listed in paragraph 4(a) of the Policy have been satisfied: (i) the disputed domain name is identical or confusingly similar to a 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. The Panel finds that all three of these elements have been met in this case.

A. Identical or Confusingly Similar

This first element functions primarily as a standing requirement. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7. 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. Id. This element requires the Panel to consider two issues: first, whether the Complainant has rights in a relevant mark; and second, whether the disputed domain name is identical or confusingly similar to that mark.

A registered trademark provides a clear indication that the rights in the mark shown on the trademark certificate belong to its respective owner. See *Advance Magazine Publishers Inc., Les Publications Conde Nast S.A. v. Voguechen*, WIPO Case No. [D2014-0657](#). The Complainant has demonstrated its rights in the ZACKS mark by providing evidence of its trademark registration. See [WIPO Overview 3.0](#), section 1.2.1.

The disputed domain name incorporates the ZACKS mark in its entirety, with the only difference being the addition of an extra letter "z". The addition of a single repeated letter does not prevent a finding of confusing similarity, as the mark remains clearly recognizable within the disputed domain name. See [WIPO Overview 3.0](#), section 1.9 ("A domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element.").

The addition of a generic Top-Level Domain ("gTLD") such as ".com" is also irrelevant in the confusing similarity analysis. See [WIPO Overview 3.0](#), section 1.11.1.

Accordingly, the Panel finds that the Complainant has established this first element under the Policy.

B. Rights or Legitimate Interests

The Panel evaluates this element of the Policy by first looking to see whether the Complainant has made a prima facie showing that the Respondent lacks rights or legitimate interests in respect of the disputed domain name. If the Complainant makes that showing, the burden of production shifts to the Respondent to demonstrate rights or legitimate interests (while the ultimate burden of proof remains with the Complainant). See [WIPO Overview 3.0](#), section 2.1; *AXA SA v. Huade Wang*, WIPO Case No. [D2022-1289](#).

The Complainant asserts, among other things, that: (1) the Respondent is not affiliated or related to the Complainant in any way; (2) the Complainant has not licensed, authorized, or otherwise permitted the Respondent to use the ZACKS mark; (3) the Respondent is not commonly known by the disputed domain name and has not acquired any trademark or service mark rights in the ZACKS name or mark; and (4) the Respondent registered and used the disputed domain name to direct users to websites offering services competitive with those of the Complainant.

The Respondent asserts that it registered the disputed domain name at the request of a friend of one of its clients, purportedly on behalf of an auto dealership named "Zacks Motors" in Florida. However, the Panel does not find this assertion credible. The Respondent has not provided any documentation – such as invoices, work orders, or a declaration from the alleged requesting party – to substantiate its claim. Moreover, the website to which the disputed domain name resolves does not appear to have been created by the Respondent but by a different company. These inconsistencies, coupled with the lack of supporting evidence, undermine the Respondent's narrative.

Further, the Complainant has provided evidence that the disputed domain name resolved to websites, both on desktop and mobile modalities, offering services similar to or competitive with those of the Complainant. Using a domain name that is confusingly similar to a complainant's mark to mislead Internet users and redirect them to competing services does not confer rights or legitimate interests on a respondent. See *Future Motion, Inc. v. Will Hoper*, WIPO Case No. [D2024-1378](#) (using disputed domain name to deceive website visitors did not confer rights or legitimate interests).

Given the Complainant's prima facie showing and the Respondent's failure to present credible evidence to rebut it, the Panel finds that the Respondent lacks rights or legitimate interests in the disputed domain name.

Accordingly, the Panel finds that the Complainant has established this second element under the Policy.

C. Registered and Used in Bad Faith

Under paragraph 4(a)(iii) of the Policy, the Complainant must establish that the disputed domain name was both registered and used in bad faith. The Panel finds that the Complainant has met this burden.

Registration in Bad Faith

The circumstances indicate that the Respondent registered the disputed domain name with knowledge of the Complainant and its rights in the ZACKS trademark. The Complainant's mark has been in use since at least 1978 and is registered in the United States. Given the distinctiveness of the ZACKS mark and its long-standing use in connection with financial and investment-related content, it is unlikely that the Respondent coincidentally registered a nearly identical domain name – differing only by the addition of an extra “z”.

Further, for the reasons discussed in section 6.B. above, the Panel does not find the Respondent's explanation for the registration of the disputed domain name to be credible. The lack of any supporting documentation, coupled with inconsistencies arising from the Respondent's narrative, leads the Panel to conclude that the disputed domain name was registered in bad faith with knowledge of the Complainant's trademark rights.

Use in Bad Faith

The Respondent has used the disputed domain name to redirect Internet users to websites providing credit reporting information and promoting a trading and financial company. These services are either similar to or actually do compete with those of the Complainant. This constitutes a clear attempt to mislead consumers for commercial gain by creating a likelihood of confusion with the Complainant's mark. Such conduct falls within the scope of paragraph 4(b)(iv) of the Policy, which identifies as evidence of bad faith circumstances in which a respondent uses a domain name to intentionally attract, for commercial gain, Internet users by creating confusion with the complainant's mark. See, e.g., *Ammunition Operations LLC v. Lucas Harper, aretesterooids*, WIPO Case No. [D2022-2171](#) (finding bad faith where the respondent used the disputed domain name to redirect users to a competing website).

Moreover, the Respondent's unsupported explanations further reinforce bad faith. The Panel finds the Respondent's misleading or unsubstantiated justification for the disputed domain name's registration to be an indication of bad faith. Such conduct is akin to the provision of false contact information which can be an indicator of bad faith (see [WIPO Overview 3.0](#), section 3.6).

Accordingly, the Panel finds that the Complainant has established this third element under 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 <zzacks.com> be transferred to the Complainant.

/Evan D. Brown/

Evan D. Brown

Sole Panelist

Date: February 24, 2025