

ADMINISTRATIVE PANEL DECISION

Swedish Match North Europe AB and Philip Morris International, Inc. v.
haoming li, Shenzhen Zhiming E-commerce Co.
Case No. D2025-0053

1. The Parties

The Complainants are Swedish Match North Europe AB, Sweden; and Philip Morris International, Inc., United States of America ("United States"), represented by D.M. Kisch Inc., South Africa.

The Respondent is haoming li, Shenzhen Zhiming E-commerce Co., China.

2. The Domain Name and Registrar

The disputed domain name <us-zyn.com> is registered with GoDaddy.com, LLC (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on January 8, 2025. On January 8, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 8, 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 (Registration Private / Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainants on January 10, 2025, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainants to submit an amendment to the Complaint. The Complainants filed an amended Complaint on January 10, 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 January 20, 2025. In accordance with the Rules, paragraph 5, the due date for Response was February 9, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on February 10, 2025.

The Center appointed Anita Gerewal as the sole panelist in this matter on February 13, 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.

4. Factual Background

The First Complainant, Swedish Match North Europe AB, is part of the group of companies affiliated to the Second Complainant, Philips Morris International, Inc., an international tobacco company.

The First Complainant was originally founded in 1992 and acquired by the Second Complainant in May 2022. The First Complainant is specialized in the manufacturing, marketing, and sale of smoke-free tobacco products, such as snus and nicotine pouches. One of the First Complainant's products is the ZYN nicotine pouch brand, first launched in the United States in 2016 and now available in around 40 markets across the world. The First Complainant's website is "www.swedishmatch.com".

The First Complainant is the owner, amongst others, of the following ZYN trademark registrations:

- International Registration No. 1421212 for **ZYN** (word) in class 34, registered on April 18, 2018, designating several countries, including China
- International Registration No. 1456681 for **ZYN** (word/device) in class 34, registered on December 27, 2018, designating Australia, Bahrain, Switzerland, Egypt, United Kingdom, Israel, Kenya, Norway, Oman and Philippines

Pinkerton Tobacco Co. LP, not a co-Complainant in this proceeding, but a company which is part of the group of companies affiliated to the First Complainant, is the owner of the following ZYN trademark registrations in the United States:

- United States Registration No. 5061008 for **ZYN** (word) in class 34, registered on December 7, 2015
- United States Registration No. 5925183 for **FIND YOUR ZYN** (word) in class 34, registered on December 3, 2019

The Respondent is the registrant of the disputed domain name <us-zyn.com>. The disputed domain name was registered on September 26, 2024.

The disputed domain name resolves to a website prominently featuring the ZYN trademark and offering purported ZYN products for sale.

5. Parties' Contentions

A. Complainants

The Complainants contend that they have satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainants contend that the disputed domain name reproduces the ZYN trademark in its entirety, in addition to the nondistinctive geographical abbreviation for the United States (i.e., "us"). The disputed domain name is identical to the Complainants' ZYN trademark. All of the Complainants' trademarks were registered before the disputed domain name, which was registered on September 26, 2024.

The Complainants also contend that the Respondent has no rights or legitimate interests in the disputed domain name. The Complainants have not licensed or otherwise permitted the Respondent to use any of its trademarks or to register a domain name incorporating the Complainants' ZYN trademark. The Respondent

is not making a legitimate non-commercial or fair use of the disputed domain name. On the contrary, the Respondent's behavior shows a clear intent to obtain an unfair commercial gain, with a view to misleadingly diverting consumers or to tarnish the trademarks owned by the Complainants.

The Complainants also contend that the Respondent is not an authorized distributor or reseller of the ZYN nicotine products. Further, the Complainants submit that the website provided under the disputed domain name does not meet the requirements set out in the leading case *Oki Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#), to be deemed as a "bona fide" offering of goods or services because i) the disputed domain name in itself suggests an affiliation with the Complainants and their ZYN mark; ii) the Respondent has prominently published the ZYN mark and official product images without authorization, whilst falsely claiming copyright of all material published on the website; and iii) the website includes no information regarding the identity of the website operator, which is only identified as "us-zyn" on the website, being a name which similarly includes the Complainants' registered ZYN trademark (without authorization) and further serves to perpetuate the false impression of an official commercial relationship between the website and the Complainants.

The Complainants submit that the disputed domain name was registered and has been used in bad faith. The Complainants state that the Respondent has demonstrated that it knew of the Complainants' ZYN trademark when registering the disputed domain name. The term ZYN is purely an imaginative term and unique to the Complainants. It is not commonly used to refer to tobacco products or electronic devices.

The Complainants also state that it is evident from the Respondent's use of the disputed domain name that it registered the disputed domain name with the intent to attract for commercial gain Internet users to the website by creating a likelihood of confusion with the Complainants' registered ZYN trademark as to source, sponsorship, affiliation or endorsement of its website. By reproducing the Complainants' ZYN trademark in both the disputed domain name and throughout the website located there, the Respondent is clearly suggesting to any Internet user visiting the site that the Complainants or an affiliated dealer is the source of the website, which is not the case.

The Complainants also claim that the fact that the Respondent is using a privacy protection service to hide its true identity may itself constitute a factor indicating bad faith.

The Complainants have cited several prior relevant decisions under the Policy to support their Complaint.

B. Respondent

The Respondent did not reply to the Complainants' contentions.

6. Discussion and Findings

According to paragraph 4(a) of the Policy, in order to succeed, the Complainants 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 Complainants have rights;
- (ii) The Respondent has no rights or legitimate interest in respect of the disputed domain name; and
- (iii) The 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 Complainants' 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 Complainants have shown rights in respect of the ZYN trademark 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, “us” followed by a dash may bear on assessment of the second and third elements, the Panel finds the addition of such terms 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.

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.

Although 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 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.

The Panel observes that the disputed domain name consists of the Complainants’ trademark in its entirety, combined with the non-distinctive term “us”, implying an affiliation with the Complainants. UDRP panels have generally ruled that such a composition cannot be considered fair use if it creates the impression of impersonation or suggests sponsorship or endorsement by the trademark owner. [WIPO Overview 3.0](#), section 2.5.1.

The disputed domain name resolves to a website displaying the Complainants’ ZYN trademark; allegedly offering and selling the Complainants’ ZYN products; and using the Complainants’ official product images without authorization. Thus, the website gives the impression that it is operated by, or affiliated with, the Complainants. The Complainants have submitted that it has not licensed or otherwise permitted the Respondent to use any trademarks or to register a domain name incorporating the ZYN trademark. Accordingly, the Panel finds that the disputed domain name is neither being used in connection with a bona fide offering of goods and services nor is the use a legitimate noncommercial or fair use of the disputed domain name. Further, nothing on the record indicates that the Respondent has been commonly known by the disputed domain name.

Having reviewed the available record, the Panel finds the Complainants have established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainants’ 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.

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) 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.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and 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.

In the present case, the Panel notes that given the prior registrations and use by the Complainants of the ZYN trademark; the distinctiveness of the Complainants' ZYN trademark for nicotine products; the incorporation of the Complainants' ZYN trademark in its entirety in the disputed domain name; and that the website operated under the disputed domain name displays the Complainants' trademark, official product images and offers the alleged ZYN products for sale, indeed in this Panel's view, the Respondent intended to attract Internet users accessing the website corresponding to the disputed domain name by creating a likelihood of confusion with the Complainants' trademark as to the source, sponsorship, affiliation or endorsement of its website and the products offered therein, for its commercial gain, according to paragraph 4(b)(iv) of the Policy.

Further, the Respondent did not respond to the Complainants' allegations, and, together with other circumstances in this case, these facts serve as additional evidence of bad faith.

The Panel finds that the Complainants have 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 <us-zyn.com> be transferred to the Complainants.

/Anita Gerewal/

Anita Gerewal

Sole Panelist

Date: February 27, 2025