

## **ADMINISTRATIVE PANEL DECISION**

LBMZ Securities, Inc. dba Zacks Trade v. Jubair Hossain, Sempex International

Case No. D2025-0732

### **1. The Parties**

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

The Respondent is Jubair Hossain, Sempex International, United Kingdom.

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

The disputed domain name <zackstradingltd.com> (the “Disputed Domain Name”) is registered with NameCheap, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 21, 2025. On February 24, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On February 24, 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, Privacy service provided by withheld for privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 26, 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 March 4, 2025, and a further amended Complaint on March 7, 2025.

The Center verified that the Complaint together with the amendment to the Complaint and 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 March 10, 2025. In accordance with the Rules, paragraph

5, the due date for Response was March 30, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on April 4, 2025.

The Center appointed Gabriela Kennedy as the sole panelist in this matter on April 9, 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 Complainant owns an online trading brokerage with the trade name "Zacks Trade". The Complainant's website ("www.zackstrade.com/about-us/") states that "Zacks Trade is a division of LBMZ Securities Inc." The Complainant owns trademark registration for the ZACKS TRADE mark, including the United States Trade Mark Registration No. 7153858 for ZACKS TRADE in Class 36 registered on September 5, 2023 (the "Complainant's Trademark").

The Disputed Domain Name was registered on December 31, 2024, some time after the Complainant first registered the Complainant's Trademark. At the time of the filing of the Complaint and the rendering of this Decision, the Disputed Domain Name resolved to an active website (the "Respondent's Website") advertising a trading company named "Zacks Trading Ltd" described as "a dynamic trading company specializing in the global distribution of premium products across diverse industries". The Respondent's Website also includes customer testimonials, and a "Contacts" section which invites prospective customers to input their name, email, and message that they would like to send to "Zacks Trading Ltd".

#### **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 that:

- (a) The Disputed Domain Name is confusingly similar to the Complainant's Trademark. The Disputed Domain Name features the primary component of the Complainant's Trademark, i.e., "zackstrad". The Disputed Domain Name adds only the non-distinctive terms "ing" and "ltd", and the addition of non-distinctive, descriptive, or generic terms does not change the overall impression of the Disputed Domain Name, and it also does not avoid confusion.
- (b) The Respondent has no rights or legitimate interests in the Disputed Domain Name. The Respondent is not affiliated or related to the Complainant in any way and is not licensed by the Complainant or otherwise authorized to use the Complainant's Trademark. The Respondent is not commonly known by the Disputed Domain Name and has not acquired any trademark or service mark rights in the "ZACKS TRADE" name or mark. The Respondent registered and uses the Disputed Domain Name to unlawfully advertise for a company called "Zacks Trading".
- (c) The Respondent has registered the Disputed Domain Name and is using it in bad faith. The Respondent has registered and used a domain name which is identical to the Complainant's well-known "ZACKS TRADE" mark. The Disputed Domain Name resolves to the Respondent's Website which advertises a company call "Zacks Trading". Such use seeks to take advantage of the reputation and goodwill associated with the Complainant's Trademark and does not represent a bona fide offering of goods or services.

## **B. Respondent**

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

## **6. Discussion and Findings**

Under paragraph 4(a) of the Policy, the Complainant is required to prove each of the following three elements:

- (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 by the Respondent 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. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the Complainant's Trademark is recognizable within the Disputed Domain Name. The dominant element "zacks" in the Complainant's Trademark is reproduced in its entirety within the Disputed Domain Name. Moreover, the Disputed Domain Name also incorporates the term "trading" which is the gerund of the verb "trade" in the Complainant's Trademark. Furthermore, it is also well established that the generic Top-Level Domain (gTLD), ".com" in this case may be disregarded for the purposes of assessing confusing similarity under the first element. [WIPO Overview 3.0](#), section 1.11.1. Accordingly, the Disputed Domain Name is confusingly similar to the Complainant's Trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms (here, "ing" and "ltd") 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 Complainant's Trademark 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.

In the present case, although the record indicates that notice of the Complaint was successfully delivered by email and by courier to the contact details provided by the Respondent to the Registrar to register the disputed domain name, the Respondent did not submit a Response. The fact that the Respondent did not submit a Response does not automatically result in a decision in favor of the Complainant. However, the Respondent's failure to file a Response may result in the Panel drawing appropriate inferences from such default. The Panel may also accept all reasonable and supported allegations and inferences flowing from the Complainant as true (see *Entertainment Shopping AG v. Nischal Soni, Sonik Technologies*, WIPO Case No. [D2009-1437](#); and *Charles Jourdan Holding AG v. AAIM*, WIPO Case No. [D2000-0403](#)).

The Panel notes that there is no evidence to show that the Respondent has trademark rights corresponding to the Disputed Domain Name, or that the Respondent has become commonly known by the Disputed Domain Name. There is also no evidence to suggest that the Respondent's use of, or demonstrable preparation to use the Disputed Domain Name or a name corresponding to the Disputed Domain Name, is in connection with a bona fide offering of goods or services or constitutes legitimate noncommercial or fair use. Moreover, the composition of the Disputed Domain Name, consisting of the primary component of the Complainant's Trademark "zackstrad" with the addition of the term "ing" (which is part of the word "trading") and "ltd", also leads to a risk of implied affiliation as the Disputed Domain Name effectively suggests sponsorship or endorsement by the Complainant. The Respondent would likely not have adopted the Complainant's Trademark if not for the purpose of creating an impression that the Disputed Domain Name is associated with, or originates from, the Complainant, especially when the Disputed Domain Name reproduces the primary component of the Complainant's Trademark and the Respondent's Website purportedly advertises its trading services, although it is unclear the exact extent to which such services mirror those offered by the Complainant. The Respondent's Website only introduces "Zacks Trading Ltd" as a "dynamic trading company specializing in the global distribution of premium products across diverse industries", and is a trusted partner in "delivering top-quality products and services across global markets", but it has not specified the exact nature or type of trading services they offer.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the Disputed Domain Name. 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 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.

In the present case, the Panel notes that it is difficult to conceive of any plausible use of the Disputed Domain Name by the unaffiliated Respondent that would amount to good faith use. The Panel notes that the Disputed Domain Name reproduces the primary component "zackstrad" in the Complainant's Trademark with the addition of the terms "ing" and "ltd". The Panel also notes that the Disputed Domain Name resolves to an active website advertising the company "Zacks Trading Ltd", and invites Internet users who are interested in the services provided by "Zacks Trading Ltd" to enter their names and email addresses so that the Respondent could contact them. The Respondent is taking advantage of the Complainant's goodwill and reputation in the online trading brokerage industry and is using the Disputed Domain Name to attract Internet users to the Respondent's Website for commercial gain by creating a likelihood of confusion with the Complainant's Trademark as to the source, sponsorship, affiliation, or endorsement of the Respondent's Website. Also, as discussed above, the Respondent lacks any rights or legitimate interests in the Disputed

Domain Name (see *Washington Mutual, Inc. v. Ashley Khong*, WIPO Case No. [D2005-0740](#)). Further, the Respondent failed to respond to the Complainant's contentions and has provided no evidence of its actual or contemplated good faith use of the Disputed Domain Name.

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 <zackstradingltd.com> be transferred to the Complainant.

*/Gabriela Kennedy/*

**Gabriela Kennedy**

Sole Panelist

Date: April 25, 2025