

## **ADMINISTRATIVE PANEL DECISION**

Zaddy, LLC v. Andrew Reberry, HugeDomains.com  
Case No. D2025-0837

### **1. The Parties**

Complainant is Zaddy, LLC, United States (“US”), represented by DiSchino & Schamy, PLLC, US.

Respondent is Andrew Reberry, HugeDomains.com, US, represented by Megan Long, US.

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

The disputed domain name <zaddy.com> (the “Domain Name”) is registered with TurnCommerce, Inc. DBA NameBright.com (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 28, 2025. On February 28, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On March 4, 2025, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name, which differed from the named Respondent (Redacted for Privacy, NameBrightPrivacy.com) and contact information in the Complaint. The Center sent an email communication to Complainant on March 5, 2025, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on March 7, 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 Respondent of the Complaint, and the proceedings commenced on March 11, 2025. In accordance with the Rules, paragraph 5, the due date for Response was March 31, 2025. The Response was filed with the Center on March 26, 2025.

The Center appointed Christopher S. Gibson, David H. Bernstein, and Matthew Kennedy as panelists in this matter on April 22, 2025. 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**

Complainant is the owner of several US trademark registrations for the ZADDY standard character mark in connection with a range of body, apparel, lifestyle, wellness, skincare, and sex-related goods and services, including cologne; hair removing cream; hair coloring and dyes; shaving gel; cosmetic body care preparations; non-medicated beard care preparations; non-medicated skin care preparations; dietary supplements for male enhancement; herbal male enhancement capsules; condoms; sex toys; artificial penises; artificial vaginas; and vibrators:

- Reg. No. 5835836, registered August 13, 2019, with a first use date of January 15, 2018
- Reg. No. 5969350, registered January 21, 2020, with a first use date of May 1, 2019
- Reg. No. 6428805, registered July 20, 2021, with a first use date of May 7, 2021
- Reg. No. 6479327, registered September 7, 2021, with a first use date of April 22, 2021

As to Complainant's ZADDY marks submitted in evidence, Complainant has claimed a date of first use in commerce as early as January 15, 2018. Complainant filed a Declaration of Incontestability with the United States Patent and Trademark Office ("USPTO") for the '836 registration on January 10, 2025, after continuously using that mark for over five years, and that registration is therefore incontestable.

Respondent Reberry is co-founder of Respondent HugeDomains.com, a domain name investment business. Respondent states it is a globally recognized domain investment company specializing in the acquisition and resale of generic, brandable, and dictionary-word domain names. Since its inception in 2003, Respondent has built a large private domain name portfolio, catering to businesses and individuals. Respondent registered the Domain Name on July 5, 2005.

#### **5. Parties' Contentions**

##### **A. Complainant**

###### **(i) Identical or confusingly similar**

Complainant has provided evidence of rights in its ZADDY trademarks. Complainant states that, from a side-by-side comparison, it is clear the Domain Name and Complainant's marks are identical – nothing further is incorporated into the Domain Name, aside from the entirety of Complainant's mark. Given there is neither the addition of a distinguishing term nor any variation in the spelling of the term "zaddy" within the Domain Name, the Domain Name and Complainant's marks are identical. Due to the identical nature of the Domain Name and Complainant's marks, an ordinary Internet user familiar with goods sold under Complainant's marks would likely assume an affiliation between Complainant and Respondent upon encountering the Domain Name.

###### **(ii) Rights or legitimate interests**

Complainant contends Respondent has no rights or legitimate interest in the Domain Name. Respondent is not known by the Domain Name. Despite the Domain Name's webpage being created in 2005, Respondent has not established any type of business under it, as the webpage remains inactive and displays only a "coming soon" banner. Additionally, Respondent's contact information has been redacted for privacy. Therefore, there is no evidence for the public to view to determine whether Respondent is known by the Domain Name or any individual name, business, or organization, nor has Respondent acquired trademark or service mark rights to the Domain Name.

Complainant claims Respondent is not using the Domain Name to further a legitimate business interest based on its failure to use the Domain Name for any form of business. Respondent fails to use or show demonstrable preparations to use the Domain Name or a corresponding name to the Domain Name in connection with a bona fide offering of goods or services. Instead, it has been "parked" over the span of 20

years. If the public were to attempt to view the Domain Name landing page, one would view a “coming soon” page. Complainant contends a “parked” website does not establish that a respondent has rights or legitimate interests in a disputed domain name. Furthermore, even if the Respondent were to launch a live webpage offering goods or services, Complainant contends that such goods or services would infringe on Complainant’s registered trademark rights.

Complainant claims the Domain Name cannot constitute fair use. Here, there is no additional term added to the Domain Name and instead Respondent identically copies Complainant’s marks. Further, Complainant argues, nonuse cannot constitute a fair use.

Lastly, Complainant has not given Respondent permission to operate under Complainant’s marks. Therefore, in the absence of any license or permission from Complainant to use its marks, no actual or contemplated bona fide or legitimate use of the Domain Name can be reasonably claimed.

(iii) Registered and used in bad faith

Complainant submits that, although the Policy lays out a list of non-exhaustive circumstances that could indicate a domain name was registered and being used in bad faith, there are additional circumstances that are relevant in determining whether a respondent’s use is in bad faith. In particular, UDRP panels have found that non-use of a disputed domain name would not prevent a finding of bad faith under the doctrine of “passive holding.” Factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant’s mark; (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good faith use; (iii) the respondent’s concealing its identity or use of false contact details; and (iv) the implausibility of any good faith uses to which the domain name may be put. In this case, Complainant claims Respondent does not effectively use the Domain Name and instead has been passively holding it. Complainant urges the Panel must give close attention to all circumstances of Respondent’s behavior and a remedy can be obtained under the Policy in the event the circumstances show that passive holding amounts to acting in bad faith.

Complainant states Respondent registered the Domain Name on July 5, 2005, and, as of the date of the Complaint, Respondent offers nothing to the public past a landing page that states, “coming soon.” Complainant argues that, by maintaining ownership of the Domain Name, which completely incorporates Complainant’s marks, Respondent’s usage inherently creates a likelihood of confusion regarding the source, sponsorship, affiliation, or endorsement of the webpage among Internet users, who would naturally be led to believe that the site is owned by or somehow connected to Complainant. Additionally, Respondent has made deliberate attempts since the Domain Name’s inception to shield its name and ownership information. Therefore, Complainant concludes that, in addition to Respondent’s deliberate action to passively hold the Domain Name, the additional circumstances described above satisfy the Policy, paragraph 4 (a)(iii), and the Domain Name is being used in bad faith by Respondent.

**B. Respondent**

Respondent does not address the first element (paragraph 4(a)(i)) of the Policy, instead focusing only on the second and third elements. Respondent requests that the Complaint be denied in its entirety and that a finding of reverse domain name hijacking (“RDNH”) be entered against Complainant.

(i) Rights or legitimate interests

Respondent contends that holding a domain name for resale, when part of a legitimate business strategy, is recognized as a bona fide offering of goods and services under UDRP precedent. Respondent further claims UDRP panels have consistently ruled that registering and holding domain names consisting of commonly used words or phrases constitutes a legitimate business interest, particularly when the domain name has inherent branding potential and was not registered to target a specific trademark. Respondent submits the term “zaddy” remains widely used in public discourse, with no exclusive association with Complainant. Respondent asserts UDRP case law has supported the principle that common, non-distinctive

words or phrases do not provide trademark exclusivity. Here, Respondent's 2005 acquisition of the Domain Name aligns with this principle, as the Domain Name was obtained for its generic or descriptive value, rather than with any intent to infringe on Complainant's then non-existent trademark rights.

Respondent maintains that Complainant cannot succeed in this dispute simply by alleging that Respondent acquired a desirable generic domain name unless it can demonstrate clear evidence of bad faith intent to target a specific trademark. Complainant is unable to do so because the Domain Name was acquired by Respondent years before Complainant created a business or registered a trademark. In the absence of such proof, Respondent's ownership and potential resale of the Domain Name must be viewed as a lawful exercise of business rights, rather than an act of cybersquatting.

(ii) Registered and used in bad faith

Respondent asserts that the undisputed facts establish that the Domain Name was registered on July 5, 2005, more than 13 years before Complainant's first claimed use of the ZADDY mark in 2018, and approximately 14 years before Complainant filed its US trademark applications for the mark. Respondent contends it is legally and factually impossible for Respondent to have registered the Domain Name in bad faith toward Complainant, as the latter did not exist at the time of registration. Respondent contends UDRP panels have consistently held that a complainant cannot succeed where the disputed domain predates its trademark rights. Since bad faith registration requires the respondent to have had the complainant's trademark in mind at the time of registration, a domain name that predates the complainant's trademark rights logically cannot have been registered with the intent to target a mark that did not yet exist.

Respondent further claims the term "zaddy" is a widely used slang term with no inherent distinctiveness tied to Complainant. The word has been publicly used in various contexts unrelated to Complainant since at least 2008. In June 2008, an Urban Dictionary user defined "zaddy" as "the slang term for a really 'handsome' guy who is very appealing and looks really fashionable. He has to have swag and sex appeal and look sexy and attractive." This definition indicates that the term was recognized and used in colloquial language at least as far back as 2008. Finally, Respondent contends, UDRP case law consistently establishes that passive holding of a domain name does not, in itself, constitute bad faith unless accompanied by specific aggravating factors. Without such factors, which are not present here, mere non-use of the Domain Name does not meet the threshold for bad faith under the UDRP.

Given that Complainant had no trademark rights at the time of registration, that "zaddy" is a generic and widely used slang term, and that Respondent has legitimate rights and interests in domain name investment, Respondent concludes Complainant has failed to meet the UDRP's three-pronged test, and the Complaint must be dismissed with a finding of RDNH entered against Complainant. In particular, Respondent argues that (1) RDNH applies when someone tries to retroactively claim rights, (2) Complainant's own timeline demonstrates it knew that it did not have trademark rights when the Domain Name was registered, so it should have known it could not succeed on this claim, and (3) given that Complainant is represented by counsel, the burden is higher, which further supports a finding of bad faith by Complainant.

## **6. Discussion and Findings**

In order to succeed on its Complaint, Complainant must demonstrate that the three elements set forth in paragraph 4(a) of the Policy have been satisfied. Those elements are as follows:

- (i) the Domain Name registered by Respondent is identical or confusingly similar to a trademark or service mark in which Complainant has rights;
- (ii) Respondent has no rights or legitimate interests in respect of the Domain Name; and
- (iii) Respondent has registered and is using the Domain Name 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 Complainant's trademark and the Domain Name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7. Here, Complainant has demonstrated rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1. The entirety of the ZADDY mark is reproduced in the Domain Name with no variation other than the ".com" generic Top-Level Domain. Accordingly, the Domain Name is identical to Complainant's mark for purposes of the Policy, and the Panel finds that the first element of the Policy has been established.

### **B. Registered and Used in Bad Faith**

The Panel determines it is not necessary to reach the second element of the Policy because Complainant has clearly failed to satisfy the third element.

As noted by Respondent and undisputed by Complainant, the Domain Name was registered by Respondent on July 5, 2005, more than 13 years before Complainant's first claimed use of its ZADDY mark in 2018, and approximately 14 years before Complainant filed its first US trademark applications for the mark. Although Complainant addresses why it believes Respondent's passive holding of the Domain Name constitutes bad faith use, Complainant does not even try to argue that the Domain Name was registered in bad faith. The Policy clearly requires Complainant to prove that the "domain name has been registered and is being used in bad faith." UDRP, paragraph 4(a)(iii) (emphasis added); *Randy A. Leslein v. Domain Hostmaster, Customer ID: 69323121876872, WhoIs Privacy Services Pty Ltd / Lisa Katz, Domain Protection LLC*, WIPO Case No. [D2017-1233](#). Further, to prove bad faith registration, Complainant must prove "that the Respondent was aware of [Complainant's] trademark when it registered the disputed domain name, and did so in order to take unfair advantage of the commercial goodwill attaching to that trademark, in other words, 'targeting' the Complainant's trademark rights." *JD Sports Fashion PLC v. Mira Holdings, Inc.*, WIPO Case No. [D2025-0375](#).

The Panel finds that Respondent did not register the Domain Name in bad faith targeting of Complainant or its trademark rights because Complainant had no trademark rights at the time that Respondent registered the Domain Name. [WIPO Overview 3.0](#), section 3.8.1. Moreover, although the evidence indicates Respondent has not actively used the Domain Name since its registration, there are no aggravating factors present in this case to justify a finding of bad faith use of the Domain Name based on the passive holding doctrine. Complainant has not submitted facts to show that its ZADDY mark has a high degree of distinctiveness or reputation (in contrast to a mark like TELSTRA, cf. *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#)), has not submitted facts to show that Respondent submitted false contact details (it being recognized that the use of a privacy service is not per se bad faith, see [WIPO Overview 3.0](#), Section 3.0, section 3.6), and has not submitted facts showing that there is no plausible good faith use for the Domain Name. See generally [WIPO Overview 3.0](#), section 3.3.

Accordingly, the Panel finds the third element of the Policy has not been established.

### **C. Reverse Domain Name Hijacking**

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.

Here, the Panel finds that Complainant knew or should have known that its Complaint could not succeed based on the undisputed facts – in particular, that the Domain Name was registered more than 13 years before Complainant's ZADDY marks existed, and therefore, there is no evidence of bad faith registration. To file a complaint knowing that a fundamental element of the claim was not supported by the facts suggests

that the Complaint was a bad faith attempt to retroactively acquire domain rights to which Complainant is not entitled. See [WIPO Overview 3.0](#), Section 3.0, section 4.16 (“Reasons articulated by panels for finding RDNH include: (i) facts which demonstrate that the complainant knew it could not succeed as to any of the required three elements – such as . . . registration of the disputed domain name well before the complainant acquired trademark rights, (ii) facts which demonstrate that the complainant clearly ought to have known it could not succeed under any fair interpretation of facts reasonably available prior to the filing of the complaint, including relevant facts on the website at the disputed domain name or readily available public sources such as the Whois database.”).

## 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 RDNH.

*/Christopher S. Gibson/*

**Christopher S. Gibson**

Presiding Panelist

*/David H. Bernstein/*

**David H. Bernstein**

Panelist

*/Matthew Kennedy/*

**Matthew Kennedy**

Panelist

Date: May 5, 2025