ARBITRATION
AND
MEDIATION CENTER

WIPO
WORLD
INTELLECTUAL PROPERTY
ORGANIZATION

ADMINISTRATIVE PANEL DECISION
Swedish Match North Europe AB, and Philip Morris International, Inc. v. matthew Larson
Case No. DCO2025-0068

1. The Parties

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

The Respondent is matthew Larson, Canada.

2. The Domain Name and Registrar

The disputed domain name <zynpouchescanada.co> is registered with NameCheap, Inc. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on August 15, 2025. On August 18, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 18, 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 Complainants on August 20, 2025, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainants to submit an amendment to the Complaint.

The Center verified that 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 August 29, 2025. In accordance with the Rules, paragraph 5, the due date for Response was September 18, 2025. The Respondent sent email communications to the Center on August 20, August 26, and August 30, 2025.

The Complainants filed an amended Complaint on August 29, 2025, updating the Respondent's identity and contact information as disclosed by the Registrar.

The Center appointed Mehmet Polat Kalafatoğlu as the sole panelist in this matter on October 1, 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 in this administrative proceeding is Swedish Match North Europe AB, a Swedish company and a subsidiary of the second Complainant. Founded in 1992, the first Complainant is primarily engaged in the business of manufacturing, marketing, and selling smoke-free tobacco products, such as snus and nicotine pouches, which are sold in several countries. One of the smoke-free products manufactured and sold by the first Complainant is nicotine pouches under the ZYN brand. It is noted that the ZYN brand was first launched in the US in 2016, and today, the ZYN nicotine product is available in around 40 markets around the world. The second Complainant is Philip Morris International, Inc., a company established under the laws of Virginia, US.

The Complainants note that for their smoke-free products, they have a large portfolio of well-known trademarks. The record shows that the first Complainant owns several registered trademarks consisting of or containing the term "ZYN", including:

- the International trademark registration No. 1421212 for ZYN, registered on April 18, 2018, in class 34;
- the International trademark registration No. 1456681 for ZYN (figurative), registered on December 27, 2018, in class 34; and
- the US trademark registration No. 5061008 for ZYN, registered on October 11, 2016, in class 34[1].

The disputed domain name was registered on January 14, 2025. At the time of filing the Complaint and rendering this decision, it resolves to an online shop selling and offering the Complainants' ZYN products together with competing third-party products. As stated by the Respondent and discussed below, there were some modifications on this website following the notification of the Complaint, including changes to its design and the addition of a disclaimer.

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. The Complainants indicate that the disputed domain name is linked to an online shop allegedly selling and offering the Complainants' ZYN products, as well as competing third-party products of other commercial origin. The Complainants contend that this website is clearly directed to the Canadian market, but the Complainants' ZYN nicotine product is not currently sold in Canada. In addition, the Complainants refer to a designation under the FAQ page of the website and notes that the Respondent's sale of the ZYN nicotine product in Canada, by his own admission, is illegal. The Complainants further contend that the website at the disputed domain name is clearly purporting to be an official online retailer of the Complainants or at the very least, an official and authorized licensee of the first Complainant; this website is prominently using the Complainants' registered logo at the top of the website and within the tab interface of the website; the Respondent is not only offering the ZYN nicotine product but

[1] The ZYN trademarks are owned by the first Complainant outside of the United States, and by Pinkerton Tobacco Co. LP in the United States. Pinkerton Tobacco Co. LP is a company which is part of the group of companies affiliated to the first Complainant.

also third-party competing products; the website is using a number of the Complainants' official product images without authorization; the website does not show any details regarding the provider of the website nor does it acknowledge the Complainants as the real brand owner of the ZYN nicotine product; and the provider of the website is using the Complainants' ZYN trademark in his name in circumstances where the provider of the website is not known to the Complainants, nor is it authorized to use the Complainants' ZYN trademarks. The Complainants' contentions regarding the three elements under the Policy can be summarized as follows.

First, the Complainants assert that the disputed domain name is confusingly similar to the ZYN trademarks.

Second, the Complainants submit that the Respondent has no rights or legitimate interest in respect of the disputed domain name. In this regard, the Complainants, inter alia, contends that it has not licensed or otherwise permitted the Respondent to use any of its trademarks or to register a domain name incorporating its ZYN trademark; the Respondent is not making a legitimate non-commercial or fair use of the disputed domain name, on the contrary, his behavior shows a clear intent to obtain unfair commercial gain, with a view to misleadingly diverting consumers or to tarnish the Complainants' trademarks; the Respondent is not an authorized distributor or reseller of the ZYN nicotine product; the website is also selling competing nicotine products and/or accessories of other commercial origin; the website at the disputed domain name does not meet the requirements for a bona fide offering of goods. The Complainants assert that the Respondent's use of the disputed domain name does not fulfill the cumulative requirements of the "Oki Data test". Lastly, the Complainants note that the illegitimacy of the Respondent's use of the disputed domain name is further shown by the fact that the Complainants do not currently offer for sale their ZYN nicotine product in Canada, and the online shop at the disputed domain name creates the false impression that the Complainants have officially introduced their products into the Canadian market.

Third, the Complainants submit that the disputed domain name was registered and is being used in bad faith. In this regard, the Complainants contend that the Respondent knew of the Complainants' ZYN trademark when registering the disputed domain name. The Complainants note that the Respondent started offering the Complainants' product immediately after registering the disputed domain name; the term ZYN is purely imaginative and unique to the Complainants; the term ZYN is not commonly used to refer to nicotine and tobacco products, or electronic devices. Therefore, the Respondent chose the disputed domain name with the intention of invoking a misleading association with the Complainants. The Complainants also argue that the Respondent registered and used the disputed domain name with the intention to attract, for commercial gain, Internet users to his website by creating a likelihood of confusion with the ZYN trademark. The Complainants also note that by reproducing the ZYN trademark in the disputed domain name and at the title of the website, the Respondent is clearly suggesting that the Complainants are the source of the website. In addition, the use of the ZYN trademark for promoting competing products is a clear-cut trademark infringement and constitutes clear evidence of bad faith. Lastly, the Complainants argue that the Respondent's use of a privacy service constitutes a factor indicating bad faith.

B. Respondent

The Respondent contends that the Complainants have not satisfied the elements required under the Policy for a transfer of the disputed domain name. The Respondent's contentions can be summarized as follows.

In his submissions dated August 26, 2025, the Respondent confirms that he is the registrant of the disputed domain name and registered it on January 14, 2025. The Respondent submits that his intent in registering the disputed domain name has never been to cause harm to the Complainants or to mislead consumers. The Respondent notes that the disputed domain name was chosen for descriptive purposes, as it reflects nicotine pouch products, specifically ZYN; it is common for resellers and information sites to register domain names that incorporate product names along with descriptive or geographical terms. The Respondent also notes that his use of the disputed domain name "has been as part of an online business offering multiple pouch brands (…), not exclusively ZYN, and never presented as the official ZYN brand". The Respondent further indicates that he did not register the disputed domain name for the purpose of selling it to the Complainants, blocking their registration, or disrupting their business; since the official ZYN website is not

accessible in Canada, the disputed domain name does not interfere with the Complainants' online operations in the Canadian market. The addition of the descriptive terms makes clear that the website is geographically focused and not identical to the Complainants' trademarks. The Respondent notes that he has not attempted to represent his website as the official ZYN website; the website includes multiple brands; and, if required, he is prepared to add more prominent disclaimers of non-affiliation to ensure no confusion arises. Finally, the Respondent indicates that his choice of the dispute domain name was based on keyword relevance and consumer familiarity, and his willingness to cooperate by altering the primary branding or domain name of his web shop, while retaining the disputed domain name as a redirect domain name.

In his Response dated August 30, 2025, the Respondent resubmits that the disputed domain name was chosen for descriptive purposes, reflecting how Canadian consumers search for "ZYN pouches Canada" and "buy ZYN Canada". The Respondent adds that the official ZYN website is not accessible in Canada, which leaves consumers to rely on resellers. The Respondent indicates that he has changed the logo, revised tab titles, removed a misleading footer, clarified the provided identity to avoid any official impression, and added clear disclaimers of non-affiliation. The Respondent also notes that the product images of ZYN remain in use, but only to depict genuine goods in a legitimate and necessary form of nominative use; he has no pattern of abusive registrations, has never offered to sell the disputed domain name, and has undertaken good faith corrective measures. The Respondent further notes that he does not contest that the Complainants holds registered rights in ZYN; the Respondent's use of privacy services is industry standard; and the footer of the website has been corrected to avoid any implication of ownership. In addition, regarding the "Oki Data test", the Respondent argues that the multi-brand offering of goods makes it clear that the website is independent, not an official ZYN store. Furthermore, the Respondent indicates that he "has removed the ambiguous text" at the FAQ section of the website and now makes clear disclaimers of non-affiliation.

Regarding the first element, the Respondent acknowledges that the ZYN trademark is recognizable in the disputed domain name. Regarding the second element, the Respondent relies on his descriptive use argument, his reseller rights under the "Oki Data test", and his good faith corrections following the submission of the Complaint. Regarding the third element, the Respondent repeats that he has no intention to sell the disputed domain name nor to block the Complainants; he registered the disputed domain name with descriptive motivation; he used product images nominatively to depict genuine goods; the use of privacy services does not indicate bad faith; and he introduced good faith adjustments on the website at the disputed domain name.

6. Discussion and Findings

A. Consolidation of Complainants

The First complainant (Swedish Match North Europe AB) is the subsidiary of the second Complainant (Philip Morris International, Inc).

In assessing whether a complaint filed by multiple complainants may be brought against a single respondent, panels look at whether (i) the complainants have a specific common grievance against the respondent, or the respondent has engaged in common conduct that has affected the complainants in a similar fashion, and (ii) it would be equitable and procedurally efficient to permit the consolidation. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("WIPO Overview 3.0"), section 4.11.1.

Here the Complainants are part from the same group, so the Panel accepts the consolidation and for the sake of convenience, they will collectively be referred to as the "Complainant" below, unless indicated otherwise.

B. 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 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 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, "pouches" and "Canada", 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.

C. 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.

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. Although the Respondent filed a Response, he could not rebut the Complainant's prima facie case and provided no relevant argument or evidence demonstrating rights or legitimate interests in the disputed domain name, such as those enumerated in the Policy or otherwise.

First, as noted in the WIPO Overview 3.0, section 2.11, "Panels tend to assess claimed respondent rights or legitimate interests in the present, i.e., with a view to the circumstances prevailing at the time of the filing of the complaint."

Second, considering that the disputed domain name incorporates the distinctive ZYN trademark and the term "ZYN" is not commonly used to refer to nicotine or tobacco products, the Panel must reject the Respondent's argument that the disputed domain name was chosen for descriptive purposes.

Third, the Complainant asserts that it has not licensed or otherwise permitted the Respondent to use any of its trademarks or to register a domain name incorporating its ZYN trademark. The Complainant further asserts that the Respondent is not an authorized distributor or reseller of ZYN products. In his Response, the Respondent relies on the argument that it is common for resellers to register domain names that incorporate trademarks together with descriptive or geographical terms. It is true that, under the Policy, resellers, distributors, or service providers using a domain name containing a complainant's trademark may be making a bona fide offering of goods or services, provided that cumulative requirements outlined in the

"Oki Data test" are fulfilled. (See, WIPO Overview 3.0, section 2.8). In the present case, the Panel finds that the online shop at the disputed domain name at the time of filing the Complaint did not meet the cumulative requirements of the "Oki Data test" for two principal reasons. As can clearly be seen from the online shop and confirmed by the Respondent, the online shop is used by the Respondent to sell ZYN-branded products with other competing products under different brands. However, pursuant to the "Oki Data test", the Respondent must use the relevant website to sell only the trademarked goods or services. In addition, the Panel finds that the online shop at the disputed domain name was not accurately and prominently disclosing the Respondent's relationship with the Complainant at the time of filing the Complaint. The record shows that at the time of filing the Complaint, there was a disclaimer at the bottom of the website, which reads as follows: "© 2025 All rights Reserved – Zyn Pouches Canada". In the Panel's view, the fact that the Respondent needed to make modifications to the website's design and to insert another disclaimer at the top of the website following the notification of the Complaint, also confirms that the online shop was not adequately disclosing the Respondent's relationship with the Complainant at the time of filing the Complaint. In any event, the Panel considers that the present disclaimer, written in much smaller characters than the rest of the website's contents, is not easily visible to Internet users. Therefore, the website still does not accurately and prominently disclose the Respondent's relationship with the Complainant.

In addition, the Panel finds that the composition of the disputed domain name carries a risk of implied affiliation with the Complainant. See, WIPO Overview 3.0, section 2.5.1.

Accordingly, the Panel finds the second element of the Policy has been established.

D. 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.

Considering the available record and particularly, the Respondent's statements (such as "The domain was chosen for descriptive purposes: it reflects nicotine pouch products, specifically ZYN" and "It is common for resellers and information sites to register domains that incorporate product names along with descriptive or geographical terms"), the Panel finds it clear that the Respondent registered the disputed domain name with the Complainant's prior ZYN trademark in mind. In addition, the disputed domain name resolves to an online shop where the Complainant's ZYN-branded products and other competing third-party products are offered for sale. The Panel also considers the confusing similarity between the ZYN trademark and the disputed domain name, the prominent use of the ZYN trademark on the website, the absence of an adequate disclaimer at the time of filing the Complaint, and the insufficiency of the present disclaimer on the website to disclose the Respondent's relationship with the Complainant. The Panel concludes that an average Internet user would easily have the impression that this online shop is operated by the Complainant or its affiliate, or at least endorsed by the Complainant. As a result, and independent from the consideration whether the Complainant currently sells its ZYN-branded products in the Canadian market, the Panel finds that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to his online shop, by creating a likelihood of confusion with the ZYN trademark as to the source, sponsorship, affiliation, or endorsement of his online shop. In the Panel's view, this amounts to bad faith registration and use of the disputed domain name.

Accordingly, 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 <zynpouchescanada.co> be transferred to the Complainant.

/Mehmet Polat Kalafatoglu/
Mehmet Polat Kalafatoglu
Sole Panelist
Date: October 15, 2025