

ADMINISTRATIVE PANEL DECISION

**Akzo Nobel N.V. v. Privacy service provided by Withheld for Privacy ehf /
OFFICE FILE, FISGLOCAL
Case No. D2022-2558**

1. The Parties

The Complainant is Akzo Nobel N.V., Netherlands, represented internally.

The Respondent is Privacy service provided by Withheld for Privacy ehf, Iceland / OFFICE FILE, FISGLOCAL, United States of America (“United States”).

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 13, 2022. On July 13, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 13, 2022, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on July 15, 2022, 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 July 15, 2022.

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 July 19, 2022. In accordance with the Rules, paragraph 5, the due date for Response was August 8, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 9, 2022.

The Center appointed Anna Carabelli as the sole panelist in this matter on August 18, 2022. 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 is a global paints and coatings company under the name Akzo Nobel N.V, and incorporated in 1911.

The Complainant holds a portfolio of registrations for the trademark AKZONOBEL, including International trademark registration number 1064677, registered in 2010, designating, amongst others, the United States.

The Complainant is also the registered owner of the domain name <akzonobel.com>. The Complainant's official website has been operating at this domain name since September 4, 1995.

The disputed domain name was registered on April 25, 2022. According to the uncontested evidence provided by the Complainant, the Respondent has used the disputed domain name for the purposes of sending to the Complainant's sales agent fraudulent invoices and bank documents from the email address tied to the disputed domain name falsely claiming to be, or otherwise associated to, the Complainant.

5. Parties' Contentions

A. Complainant

The Complainant asserts and contends that:

- The Complainant is a leading global paints and coatings company headquartered in Amsterdam, the Netherlands. The Complainant, its affiliates and subsidiaries, have an ever-growing international presence and consumer recognition worldwide.
- The Complainant is the registered proprietor of the trademark AKZONOBEL which has acquired and enjoys a significant reputation and goodwill internationally.
- The disputed domain name is identical to the Complainant's registered trademarks, company names, and domain name. The Respondent has merely added the letter "l" between the "a" and "k" of the mark AKZONOBEL, which falls under typosquatting. Upon comparing, looking at the disputed domain name the relevant public would overlook the additional letter "l".
- The Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant has historic and consistent use of AKZONOBEL as is evident by its trademark registrations, active domain name and website, and various company names. Therefore, the Respondent has no *bona fide* reason or evidence in support to the contrary and it must be concluded the Respondent had no fair intention when registering the disputed domain name.
- The disputed domain name was registered and is being used in bad faith.
- The Complainant was made aware on July 6, 2022 that the Respondent had approached the Complainant's sales agent and had sent fraudulent invoices and bank documents from the email address tied to the disputed domain name falsely claiming to be, or otherwise associated to, the Complainant.
- The Respondent is deliberately misleading the Complainant's sales agent into believing the disputed domain name is somehow the Complainant's, or is the genuine website of the Complainant, by providing falsified bank documents with different payment details for financial gain.

B. Respondent

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

6. Discussion and Findings

Paragraph 15(a) of the Rules instructs the Panel to decide the Complaint based on the statements and documents submitted and in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

Under paragraph 4(a) of the Policy, the Complainant must prove each of the following:

- (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.

Paragraph 4(b) of the Policy sets out four illustrative circumstances, which for the purposes of paragraph 4(a)(iii) of the Policy, shall be evidence of registration and use of a domain name in bad faith.

Paragraph 4(c) of the Policy sets out three illustrative circumstances any one of which, if proved by the Respondent, shall be evidence of the Respondent's rights to or legitimate interests in the disputed domain name for the purpose of paragraph 4(a)(ii) of the Policy above.

A. Identical or Confusingly Similar

The Panel finds that the Complainant has established rights over the trademark AKZONOBEL based on the evidence submitted in the Complaint.

The disputed domain name consists of a reproduction of the Complainant's trademark AKZONOBEL with the addition of the letter "l" between the "a" and "k" of the mark AZKONOBEL, followed by the generic Top-Level Domain ("gTLD") ".com".

As highlighted in section 1.11.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), the addition of the generic gTLD such as ".com" is viewed as a standard registration requirement and as such is typically disregarded under the first element confusing similarity test. Therefore, the relevant comparison to be made is with the second-level portion of the disputed domain name, *i.e.* "alkzonobel".

As highlighted in section 1.7 of the [WIPO Overview 3.0](#), the threshold test for confusing similarity typically involves a side-by-side comparison of the domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name.

In the present case, the AKZONOBEL trademark of the Complainant is indeed recognizable in the disputed domain name, which consists of the whole of the Complainant's registered mark. In the Panel's view, the addition of the letter "l" between the "a" and "k" of the mark AZKONOBEL is a minor variation that would be easy for an Internet user to overlook and does not prevent a finding of confusing similarity when comparing the disputed domain name and the Complainant's trademark (see section 1.8 of the [WIPO Overview 3.0](#)). The addition of the letter "l" in the disputed domain name may be seen as obvious – if not intentional – misspelling. It is well established that a domain name, which consists of a common, obvious, or intentional misspelling of a trademark is considered to be confusingly similar to the relevant mark for purpose of the first element (see [WIPO Overview 3.0](#), section 1.9).

Therefore, the Panel finds that the Complainant has established paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Under paragraph 4(c) of the Policy, a respondent may demonstrate its rights or legitimate interests in a domain name by showing any of the following circumstances, in particular but without limitation:

- (i) before any notice to it of the dispute, its use of, or demonstrable preparation to use the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services; or
- (ii) it has been commonly known by the domain name, even if it has acquired no trademark or service mark rights; or
- (iii) it is making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name, based on the Complainant's longstanding use and reputation of its trademark. The Complainant alleges that the Respondent has no *bona fide* reason or evidence to support any rights or legitimate interests in the disputed domain name, and it must be concluded the Respondent had no fair intention when registering the disputed domain name.

The Complainant also alleges that the Respondent sent fraudulent emails and documents from email addresses at the disputed domain name to the Complainant's sales agent. Such use of the disputed domain name is not *bona fide*.

According to section 2.1 of the [WIPO Overview 3.0](#), while 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 often impossible 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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element.

Here the Panel finds that the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. By not submitting a response, the Respondent has failed to invoke any circumstance, which could have demonstrated any rights or legitimate interests in the disputed domain name under paragraph 4(c) of the Policy.

Therefore, the Panel finds that the Complainant has established paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

According to paragraph 4(a)(iii) of the Policy, the Complainant must establish that the disputed domain name has been registered and is being used in bad faith.

The Respondent registered the disputed domain name, containing a misspelling version of the Complainant's mark in what appears on the face of it to be a typosquatting registration. In fact, the disputed domain name is only one character different to the Complainant's trademark.

The uncontested evidence in the Complaint shows that the Respondent used the disputed domain name to send fraudulent emails and falsified bank documents to the Complainant's sales agent, pretending to be, or otherwise associated to, the Complainant.

This conduct demonstrates that the Respondent specifically knew of and directly targeted the Complainant. (See *Fédération Française de Tennis (FFT) v. Daniel Hall, dotCHAT, Inc.*, WIPO Case No. [D2016-1941](#); *Akzo Nobel N.V. v. Privacy Service Provided by Withheld for Privacy ehf / jennifer alonso, jennyart*, WIPO Case No. [D2021-4244](#)).

Typosquatting in the circumstances of this case affirms a finding of bad faith registration and use under the Policy (see *Pinsent Masons LLP v. Caryll McConnell*, WIPO Case No. [D2021-0923](#)).

Impersonating a complainant by use of the complainant's mark in a fraudulent email scam is disruptive and also evinces bad faith registration and use.

In the light of the foregoing, the Panel finds that the Respondent has both registered and used the disputed domain name in bad faith.

Therefore, the Complainant has established also paragraph 4(a)(iii) 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, <alkzonobel.com>, be transferred to the Complainant.

/Anna Carabelli/

Anna Carabelli

Sole Panelist

Date: August 28, 2022