

ADMINISTRATIVE PANEL DECISION

Taojing International Ltd., Taojing International Limited and Zenni Optical, Inc.
v. Domain Administrator, Fundacion Privacy Services LTD
Case No. D2022-0775

1. The Parties

Complainant is Taojing International Ltd., Taojing International Limited, Hong Kong, China and Zenni Optical, Inc., United States of America (“United States”), represented by Green & Green Law Offices, United States.

Respondent is Domain Administrator, Fundacion Privacy Services LTD, Panama.

2. The Domain Names and Registrar

The disputed domain names <zenioptial.com>, <zeniopticak.com>, <zenioptic.com>, <zeniopticle.com>, <zenniopctical.com>, <zenniopital.com>, <zenniopritcal.com>, <zennioptcals.com>, <zennioptial.com>, <zenniopcticval.com>, <zennioptital.com>, <zennioptpical.com>, <zennioptrical.com>, <zenniopytical.com>, <zenniopyicsl.com> and <zenniopytical.com> are registered with Media Elite Holdings Limited dba Register Matrix (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 1, 2022. On March 7, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On March 13, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from named Respondent and contact information in the Complaint. The Complainant requested to withdraw its Complaint regarding the domain names <zenniopcticaj.com>, <zenniopartil.com> and <zenniopctica.com> on March 22, 2022. The Center sent an email communication to the Complainant on March 23, 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 amended Complaint on March 29, 2022.

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 April 1, 2022. In accordance with the Rules, paragraph 5, the due date for Response was April 21, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent's default on May 2, 2022.

The Center appointed Marina Perraki as the sole panelist in this matter on May 6, 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

Per Complaint, Complainants have a large business in eyeglasses, as medical devices worldwide. First Complainant is the owner of ZENNI and ZENNI OPTICAL trademarks, including:

- United States trademark registration No. 3597735, ZENNI OPTICAL (word) filed on June 12, 2008 and registered on March 31, 2009 for goods and services in international classes 9 and 35, with first use in commerce September 30, 2002, with a disclaimer for OPTICAL;
- United States trademark registration No. 4345783, ZENNI (word), filed on August 17, 2012 and registered on June 4, 2013 for goods in international class 9; and
- United States trademark registration No. 6543433, ZENNI OPTICAL.COM (word) filed on October 29, 2020 and registered on November 2, 2021 for goods in international class 9.

First Complainant licenses its trademarks exclusively to Second Complainant, which is the operator of the websites "www.zennioptical.com" and "www.zenni.com". Per Complaint, through these websites and platforms such as Amazon.com, Complainants sell their ZENNI and ZENNI OPTICAL goods.

The Domain Names were registered on the following dates:

<zenioptial.com>, December 24, 2020
<zenioptic.com>, February 8, 2009
<zeniopticak.com>, June 17, 2020
<zeniopticle.com>, February 25, 2020
<zenniopctical.com>, January 10, 2019
<zenniopital.com>, October 5, 2021
<zenniopritcal.com>, November 20, 2020
<zennioptcals.com>, June 17, 2020
<zennioptial.com>, January 28, 2010
<zenniopcticval.com>, January 10, 2019
<zennioptital.com>, August 27, 2020
<zenniopctical.com>, December 10, 2021
<zennioptrical.com>, December 23, 2021
<zennioptyical.com>, November 19, 2021
<zenniopyicsl.com>, June 17, 2020
<zenniopytical.com>, December 23, 2021

Per Complaint, Respondent's various sites and links sell the same goods, and services including eyeglasses in various formats and prescription eyeglasses and related accessories, goods, and services as Complainants at low prices. Some include links to Complainants' competitors. Some redirect to a part of Complainants' site and others are inactive.

As Complainants demonstrated the Domain Names <zeniopticak.com>, <zennioptcals.com> lead to an inactive website; <zenioptial.com>, <zenioptic.com>, <zenniopctical.com>, <zenniopital.com>,

<zenniopritcal.com>, <zennioptital.com>, <zenniopicval.com> redirect to another site which redirects to Complainants' site and <zenniopticle.com>, <zennioptital.com>, <zenniopyicsl.com>, <zennioptical.com> lead to a pay-per-click (PPC) page with sponsored links for Complainants' products and, as the case may be, eyewear related third party goods and services advertisements, or links to third party sites selling competing products, <zenniopytical.com>, <zennioptrical.com>, <zenniopytical.com> lead to a PPC page with sponsored links for Complainants' products and those of Complainants' competitors, eyewear and/or related services offerings, enabling users to click on Complainant's competitors websites.

Per Complainant, the Websites supposedly show "related Searches" to "ZENNI PRESCRIPTION GLASSES", "ZENNI OPTICAL EYEGLASSES", "ZENNI OPTICAL". "ZENNI OPTICAL GLASSES" and "Buy Glasses", however all these "related searches" do not lead to Complainants / Zenni website and are fraudulent. As regards the websites that point to a deep link to part of the Complainants' website for a certain product, they bypasses all the ZENNI materials on the home page of Complainants' website. The Websites show Complainants' products photographs without authorisation and those of competition. Users need to enter a Prescription on ZENNI website but the manner these deep links are made could compromise user privacy when entering their personal medical information. Per Complainants there is a concern that the linking can follow or detect or record privacy information from users who click through.

Currently:

the Domain Names <zenniopicak.com>, <zennioptcals.com> lead to inactive websites;
the Domain Name <zennioptial.com> leads to a blocked website with a security warning;
the Domain Name <zenniopticle.com> leads to a blank page which lists sponsored links under "zenni eyewar", "eye lenses" and "optician";
the Domain Name <zenniopctical.com> redirects to a financial news website in German;
the Domain Name <zenniopital.com> leads to a web page which lists sponsored links related to Complainants' trademarks and goods;
the Domain Name <zennioptrical.com> redirects to a website selling cooking related utensils in German;
the Domain Name <zennioptial.com> redirects to a Swiss website selling machines and tools in German;
the Domain Name <zenniopicval.com> redirects to a website in German with online sports betting;
the Domain Name <zennioptital.com> leads to a blank page which lists sponsored links under "zenni eyewar", "zenni optical" and "zenni optical glasses";
the Domain Name <zennioptrical.com> leads to a blank page which lists sponsored links for *inter alia* eyewear;
the Domain Name <zenniopritcal.com> leads to a blank page which lists sponsored links for *inter alia* eyewear and purportedly selling Complainants' eyewear;
the Domain Name <zenniopytical.com> leads to a blank page which lists sponsored links for *inter alia* eyewear and purportedly Complainants' eyewear;
the Domain Name <zenniopyicsl.com> which lists sponsored links for *inter alia* eyewear and purportedly selling Complainants' eyewear; and
the Domain Name <zenniopytical.com> leads to a blank page which lists sponsored links for *inter alia* eyewear.

Per Complaint, Complainants receive comments from their contractors about the confusion caused by some of the Domain Names.

5. Parties' Contentions

A. Complainant

Complainant asserts that it has established all three elements required under paragraph 4(a) of the Policy for a transfer of the Domain Names.

B. Respondent

The Respondent did not reply to the Complainants' contentions.

6. Discussion and Findings

Paragraph 4(a) of the Policy lists the three elements which Complainant must satisfy with respect to the Domain Name:

(i) the Domain Names are identical or confusingly similar to a trademark or service mark in which Complainant has rights; and

(ii) Respondent has no rights or legitimate interests in respect of the Domain Names; and

(iii) the Domain Names have been registered and are being used in bad faith.

A. Identical or Confusingly Similar

Complainants have demonstrated rights through registration and use in the ZENNI OPTICAL mark.

The Panel finds that the Domain Names, that incorporate Complainants' ZENNI OPTICAL mark, with typographical errors, are confusingly similar to the ZENNI OPTICAL trademark of Complainants. They all consist of a common, obvious, or intentional misspelling of Complainants' trademark and constitute a typical case of typosquatting. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), sections 1.9.

The generic Top-Level Domain ("gTLD") ".com" is disregarded, as gTLDs typically do not form part of the comparison on the grounds that they are required for technical reasons (*Rexel Developpements SAS v. Zhan Yequn*, WIPO Case No. [D2017-0275](#)).

Complainant has established Policy, paragraph 4(a)(i).

B. Rights or Legitimate Interests

Pursuant to paragraph 4(c) of the Policy, Respondent may establish its rights or legitimate interests in the Domain Names, among other circumstances, by showing any of the following elements:

(i) before any notice to Respondent of the dispute, Respondent's use of, or demonstrable preparations 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) Respondent (as an individual, business, or other organization) has been commonly known by the Domain Name, even if it has acquired no trademark or service mark rights; or

(iii) Respondent 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 Panel concludes that Respondent lacks rights or legitimate interests in respect of the Domain Names.

Respondent has not submitted any response and has not claimed any such rights or legitimate interests with respect to the Domain Names. As per Complaint, Respondent was not authorized to register the Domain Names and Respondent has not been commonly known by the Domain Names.

Prior to the notice of the dispute, Respondent did not demonstrate any use of the Domain Names or a trademark corresponding to the Domain Names in connection with a *bona fide* offering of goods or services. On the contrary, as Complainants demonstrated, the Domain Names resolve to the Websites purportedly selling Complainants' products at low prices, or listing PPC links including links to Complainants' site and to those of Competitors or to inactive websites or to site with security warnings.

Currently the Domain Names resolve to inactive websites, to a website blocked for security purposes, to websites displaying PPC links to Complainants' related products. The use of a domain name to host a page comprising PPC links does not represent a *bona fide* offering where such links capitalize on the reputation and goodwill of the complainant's mark or otherwise mislead Internet users, such as in the case at issue ([WIPO Overview 3.0](#), section 2.9).

Lastly, the nature of the Domain Names affirms the intention of using Domain Names to create a likelihood of confusion with Complainant's marks, and were initially registered with a privacy shield service.

The Panel finds that these circumstances do not confer upon Respondent any rights or legitimate interests in respect of the Domain Names.

Complainants have established Policy, paragraph 4(a)(ii).

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy provides that the following circumstances, "in particular but without limitation", are evidence of the registration and use of the Domain Name in "bad faith":

(i) circumstances indicating that Respondent has registered or has acquired the Domain Name primarily for the purpose of selling, renting, or otherwise transferring the Domain Name registration to Complainant who is the owner of the trademark or service mark or to a competitor of that Complainant, for valuable consideration in excess of its documented out of pocket costs directly related to the Domain Name; or

(ii) Respondent has registered the Domain Name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding Domain Name, provided that Respondent has engaged in a pattern of such conduct; or

(iii) Respondent has registered the Domain Name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the Domain Name, Respondent has intentionally attempted to attract, for commercial gain, Internet users to Respondent's website or other on line location, by creating a likelihood of confusion with Complainant's mark as to the source, sponsorship, affiliation, or endorsement of Respondent's website or location or of a product or service on Respondent's website or location.

The Panel concludes that Respondent has registered and used the Domain Names in bad faith. Because the ZENNI OPTICAL mark was registered prior to the Domain Name registrations, the Panel finds it more likely than not that Respondent had Complainants' mark in mind when registering the Domain Names (*Tudor Games, Inc. v. Domain Hostmaster, Customer ID No. 09382953107339 dba Whois Privacy Services Pty Ltd / Domain Administrator, Vertical Axis Inc.*, WIPO Case No. [D2014-1754](#); *Parfums Christian Dior v. Javier Garcia Quintas and Christiandior.net*, WIPO Case No. [D2000-0226](#)).

As regards bad faith use, the Panel considers the following factors:

(i) the use of the Domain Names for websites purportedly selling Complainants' products at low prices, or listing PPC links, including links to Complainants' site and to those of Competitors or to inactive websites or to site with security warnings;

(ii) the failure of Respondent to submit a response; and

(iii) the fact that the Domain Names are registered with a privacy shield service to hide the registrant's identity. Respondent's concealment of the Domain Name's holder's identity through use of a privacy shield constitutes further indication of bad faith in the circumstances of this case (*Fifth Third Bancorp v. Secure Whois Information Service*, WIPO Case No. [D2006-0696](#)).

Under these circumstances and on this record, the Panel finds that Respondent has registered and is using the Domain Names in bad faith.

Complainants have established Policy, paragraph 4(a)(iii).

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 Domain Names, <zenioptial.com>, <zeniopticak.com>, <zenioptic.com>, <zeniopticle.com>, <zenniopctical.com>, <zenniopital.com>, <zenniopritcal.com>, <zennioptcals.com>, <zenioptial.com>, <zenniopcticval.com>, <zenniopctital.com>, <zenniopctical.com>, <zenniopctrical.com>, <zenniopctyical.com>, <zenniopyicsl.com> and <zenniopctical.com> be transferred to the first Complainant Taojing International Ltd.

/Marina Perraki/

Marina Perraki

Sole Panelist

Date: May 20, 2022