

## **ADMINISTRATIVE PANEL DECISION**

**FNZ (UK) Limited, and Kiwi IP Co. Limited, c/o Maples Corporate Services Limited v. Privacy Service Provided by Withheld for Privacy ehf / fnz bank**  
Case No. D2022-2894

### **1. The Parties**

Complainants are FNZ (UK) Limited, United Kingdom, and Kiwi IP Co. Limited, c/o Maples Corporate Services Limited, Cayman Islands, United Kingdom, represented by Demys Limited, United Kingdom.

Respondent is Privacy Service Provided by Withheld for Privacy ehf, Iceland / fnz bank, United Kingdom.

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

The disputed domain name <fnzbank.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 August 5, 2022. On August 5, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 5, 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 Complainants on August 8, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting Complainants to submit an amendment to the Complaint. Complainants filed an amended Complaint on August 9, 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 August 11, 2022. In accordance with the Rules, paragraph 5, the due date for Response was August 31, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on September 2, 2022.

The Center appointed Lynda J. Zadra-Symes as the sole panelist in this matter on September 9, 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

First Complainant, FNZ Limited (UK), is a financial service and technology company offering digital wealth management services to major financial institutions such as asset and wealth managers, banks and life insurers. First Complainant was founded in New Zealand in 2004 and expanded to the United Kingdom in 2005, where it is currently headquartered. First Complainant operates globally with offices around the world, including South Africa, Ireland, China and Australia.

According to the Complaint, First Complainant's primary business is to provide a digital wealth management, transaction and custody platform through a cloud-based system. First Complainant has more than 650 clients, including institutions such as Standard Life, Lloyds Bank, Zurich Insurance Group, UBS and Santander. First Complainant enables high-tech wealth management for around 12 million investors with approximately EUR 1 trillion in assets under management.

On November 4, 2021, First Complainant announced the acquisition of Fondsdepot Bank, one of the leading business-to-business (B2B) banks in Germany.

Second Complainant, Kiwi IP Co. Limited, is Complainants' group's intellectual property holding company and holds registered rights in the mark FNZ for use in connection with financial and investment services, financial software and other related products and services, including but not limited to the following;

United Kingdom Registration No. 00002585435	Registered October 14, 2011
New Zealand Registration No. 844486	Registered January 9, 2012
Australian Registration No. 1432746	Registered June 23, 2011
International Registration No. 1432435	Registered August 24, 2018

Complainants operate an official website from the domain name <fnz.com> and contend that their brand is well known around the world. Complainants submit that, when searching for "FNZ bank" on Google, all results relate to Complainants, that FNZ BANK has no generic meaning and can only sensibly refer to their brand.

Complainants contend that they have a specific common grievance against Respondent, in that Respondent has targeted both Complainants' rights.<sup>1</sup> Complainants also contend that the disputed domain name takes unfair advantage of First Complainant's FNZ brand and is confusingly similar to Second Complainant's registered rights in the mark FNZ.

Respondent has caused or allowed its details to be redacted from the public WhoIs and little is known about Respondent by Complainants. The disputed domain name was created on January 8, 2022. At the time of filing the Complaint, the disputed domain name did not resolve to an active website.

Complainants wrote to Respondent on July 26, 2022, but did not receive a response.

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<sup>1</sup> The Panel finds Complainants have a specific common grievance against Respondent and Respondent has engaged in common conduct that has affected Complainants in a similar fashion, and it is equitable and procedurally efficient to permit the consolidation.

## **5. Parties' Contentions**

### **A. Complainant**

Complainants contend that the disputed domain name is identical or confusingly similar to Complainants' trademark rights, that Respondent has no rights or legitimate interest in respect of the disputed domain name and that the disputed domain name has been registered and used in bad faith.

### **B. Respondent**

Respondent did not reply to Complainants' contentions.

## **6. Discussion and Findings**

In order to succeed in their claim, Complainants must demonstrate that all of the elements enumerated in paragraph 4(a) of the Policy have been satisfied:

(i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which Complainants have rights; and

(ii) Respondent has no rights or legitimate interests with respect to the disputed domain name; and

(iii) the disputed domain name has been registered and is being used in bad faith.

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

### **A. Identical or Confusingly Similar**

Complainants have demonstrated that they have rights in the trademark FNZ in connection with financial and monetary services, and related goods and services. The disputed domain name incorporates Complainants' mark in its entirety, with the addition of the word "bank", which is a term closely related to the services for which Complainants' FNZ mark is registered and used. The addition of the word "bank" does not prevent a finding of confusing similarity (see section 1.8 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

Accordingly, the Panel finds that the disputed domain name is confusingly similar to Complainants' trademarks.

### **B. Rights or Legitimate Interests**

Complainants contend that Respondent is not affiliated with or connected to Complainants in any way. At no time have Complainants licensed or otherwise endorsed, sponsored or authorized Respondent to use Complainants' FNZ mark or to register the disputed domain name. The record is devoid of any facts that establish any rights or legitimate interests of Respondent in the disputed domain name. Complainants found no evidence that Respondent has been commonly known by the disputed domain name or that it has any registered or unregistered rights that might predate Complainants' adoption and use of their mark. The disputed domain name was registered approximately 11 years after Complainants' earliest registration for the FNZ mark.

Respondent has not made, and is not making, a legitimate noncommercial or fair use of the disputed domain name. The disputed domain name does not resolve to an active website and Respondent has not used the disputed domain name in connection with the *bona fide* offering of goods or services.

Complainants contend that given the well-known nature of their FNZ mark, there is no conceivable use to which the disputed domain name could be put now, or in the future, that would confer any legitimate interests upon Respondent.

The Panel finds that Complainants have satisfied the requirement of paragraph 4(a)(ii) of the Policy.

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

The disputed domain name was registered two months after Complainants' announcement of the acquisition of a B2B bank. Internet news reports of the acquisition are headlined "FNZ to Acquire Fondsdepot Bank..." The record indicates that Respondent most likely had actual knowledge of Complainants' rights in their FNZ mark prior to registering the disputed domain name and that Respondent registered and used the disputed domain name with the intention of obtaining financial gain or disrupting the business of Complainants. Passive holding of a domain name in these circumstances constitutes evidence of bad faith. Further evidence of bad faith is shown by Respondent's provision of fake contact details when registering the disputed domain name.<sup>2</sup>

Accordingly, the Panel finds that Respondent has registered and used the disputed domain name in bad faith.

### **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, <fnzbank.com> be transferred to the Second Complainant, Kiwi IP Co. Limited.

*/Lynda J. Zadra-Symes/*

**Lynda J. Zadra-Symes**

Sole Panelist

Date: September 23, 2022

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<sup>2</sup> Complainants contend that "the address provided by the Respondent does not match the address found for that postcode via the United Kingdom postal company Royal Mail's postcode finder nor was the address found by Bing maps."