

ADMINISTRATIVE PANEL DECISION

ZenBusiness Inc. v. See PrivacyGuardian.org / Zhichao Yang
Case No. D2022-3177

1. The Parties

The Complainant is ZenBusiness Inc., United States of America (“United States”), represented by Hanson Bridgett LLP, United States.

The Respondent is See PrivacyGuardian.org / Zhichao Yang, China.

2. The Domain Name and Registrar

The disputed domain name <zenbusiness.com> (the “Domain Name”) is registered with NameSilo, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 26, 2022. On August 28, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On August 29, 2022, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on August 31, 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 September 3, 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 the Respondent of the Complaint, and the proceedings commenced on September 5, 2022. In accordance with the Rules, paragraph 5, the due date for Response was September 25, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 26, 2022.

The Center appointed Ian Lowe as the sole panelist in this matter on September 30, 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 public benefit corporation based in Texas, United States. Since February 2017 it has provided business formation and management services offering a one-stop guided platform for entrepreneurs to launch, run and grow a successful business under the mark ZENBUSINESS. Its web platform at “www.zenbusiness.com” enables users to monitor and track business filings and compliance and provides a range of other functionality relating to business office functions. Over one million users visit the website monthly.

The Complainant is the registered proprietor of United States trademark number 5689125 ZENBUSINESS registered on March 5, 2019 and International trademark number 1675626 ZENBUSINESS registered on April 11, 2022 designating a number of territories including the United Kingdom and the European Union.

The Domain Name was registered on September 26, 2018. It resolves to a web portal of links to a number of webpages comprising pay-per-click links to the websites of third parties related to the Complainant’s area of business.

5. Parties’ Contentions

A. Complainant

The Complainant contends that the Domain Name is confusingly similar to its ZENBUSINESS trademark (the “Mark”), that the Respondent has no rights or legitimate interests in respect of the Domain Name, and that the Respondent registered and is using the Domain Name in bad faith within the meaning of paragraph 4(b)(iv) of the Policy.

B. Respondent

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

6. Discussion and Findings

According to paragraph 4(a) of the Policy, for this Complaint to succeed in relation to the Domain Name the Complainant must prove that:

- (i) the Domain Name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) the Respondent has no rights or legitimate interests in respect of the Domain Name; and
- (iii) the Domain Name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Complainant has uncontested rights in the Mark, both by virtue of its trademark registrations and as a result of the goodwill and reputation acquired through its use of the Mark for some years. Ignoring the generic Top-Level Domain (“gTLD”) “.com”, the Domain Name is identical to the Mark save for the omission of the last letter “s”. In the Panel’s view, this difference does not detract from the confusing similarity

between the Domain Name and the Marks. Accordingly, the Panel finds that the Domain Name is confusingly similar to a mark in which the Complainant has rights.

B. Rights or Legitimate Interests

The Complainant has made out a *prima facie* case that the Respondent can have no rights or legitimate interests in respect of the Domain Name. In the Panel's view the Domain Name has every appearance of being an example of typosquatting, whereby a domain name is registered with a minor variation of an established brand with a view to taking advantage of typographical errors or mistaken perception by Internet users. Such a registration cannot possibly, on the face of it, give rise to rights or legitimate interests on the part of the registrant of a domain name.

The Respondent has chosen not to respond to the Complaint and has accordingly failed to counter the *prima facie* case established by the Complainant. In the circumstances, the Panel finds that the Respondent does not have any rights or legitimate interests in respect of the Domain Name.

C. Registered and Used in Bad Faith

In light of the timing of the registration of the Domain Name, some 18 months after the establishment of the Complainant's business, and the composition of the Domain Name, a very minor misspelling of an unusual combination of terms, the Panel finds it likely that the Respondent had the Complainant and its nascent rights in the Mark in mind when it registered the Domain Name. In the absence of any response by the Respondent, the Panel is satisfied that the Respondent has registered the Domain Name for commercial gain with a view to taking unfair advantage of the Complainant's rights in the Mark and to confuse Internet users into believing that the Domain Name was being operated by or authorized by the Complainant.

The use of the confusingly similar Domain Name to display pay-per-click links related to the Complainant's area of business further indicates an intent to profit unduly through creating a likelihood of confusion with the Mark within the meaning of paragraph 4(b)(iv) of the Policy.

The Panel also notes that the Respondent has been found to have targeted third-party trademarks and received adverse decisions in numerous proceedings under the Policy, indicating that the Respondent has engaged in a pattern of registering and using domain names in bad faith.

In the circumstances, the Panel finds that the Domain Name was registered and is being used 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 Domain Name <zenbusiness.com> be transferred to the Complainant.

/Ian Lowe/

Ian Lowe

Sole Panelist

Date: October 12, 2022