

ADMINISTRATIVE PANEL DECISION

Zensar Technologies Limited v. alone john
Case No. D2022-4906

1. The Parties

The Complainant is Zensar Technologies Limited, India, represented by K&S Partners, India.

The Respondent is alone john, India.

2. The Domain Name and Registrar

The disputed domain name <zensar-technologies.com> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 21, 2022. On December 21, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 22, 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 (Domains By Proxy, LLC (DomainsByProxy.com)). The Center sent an email communication to the Complainant on December 28, 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 January 2, 2023.

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 January 6, 2023. In accordance with the Rules, paragraph 5, the due date for Response was January 26, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 27, 2023. On February 3, 2023, the Respondent sent an email.

The Center appointed Maninder Singh as the sole panelist in this matter on February 8, 2023. 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 Zensar Technologies Limited, a company incorporated under the Companies Act, 1956 (India). The Complainant, claims to be a leading technology consulting and services company. It is offering services to dynamic industries such as Hi-tech, Manufacturing, Banking & Financial Services, Insurance, Consumer Services, Public Services, and Healthcare.

The Respondent has registered the disputed domain name <zensar-technologies.com> on October 31, 2019. The disputed domain name resolves to a website stating "Welcome to Zensar Technologies Generate your business leads with high performing website".

5. Parties' Contentions

A. Complainant

- The Complainant company has been incorporated in the year 1963 as "International Computers and Tabulators Indian Manufacturing Company Limited" [Annexure 4 – Certificate of Incorporation]. It offers and provides a wide range of services in the field of computer software and information technology, providing IT solutions, computer programming, mobile application software and tools, business process outsourcing, cloud computing, business intelligence, etc.
- The Complainant claims to be amongst the top 15 software service providers in India. It has more than 10000 associates and sales & operations presence across India, the United States of America ("United States"), the United Kingdom, South Africa, Singapore, Mexico, Canada, Columbia, and many other countries. The Complainant delivers comprehensive services in mission-critical applications, enterprise applications, e-business and IT/ ITES solutions and related services to many fortune 500 companies, as its clients.
- The Complainant is listed on both the National Stock Exchange of India (NSE) and the Bombay Stock Exchange (BSE) and is present on several indices including the NSE's Nifty 500 and the S&P BSE 500.
- The Complainant claims to have coined, adopted and started using the mark/expression ZENSAR in 2001 in respect of a wide range of products and services. In the same year, the corporate name of the Complainant was also changed to "Zensar Technologies Limited".
- The Complainant claims to have owned the domain name <zensar.com> since December 6, 1999, and operates its website "www.zensar.com".
- The Complainant, over the years, claims to have invested substantial expenditure in promoting and advertising the mark ZENSAR and/or the services provided thereunder worldwide as well as in India. The Complainant also claims to have prominent social media presence, on various social media platforms such as Facebook, Instagram, and Twitter. The Complainant also claims that over the years, it has also received extensive unsolicited media coverage from time to time.
- The Complainant claims that it is the registered and lawful proprietor of the mark ZENSAR in India in various classes. The Complainant further claims that the Complainant has also been actively enforcing its rights in the mark ZENSAR by taking action against third parties. The Complainant has also received favorable orders and results in this regard. The Complainant also claims to have applied for and/or obtained registration for the mark ZENSAR in various jurisdictions of the world

including the United States, the United Kingdom, South Africa etc. The Complainant claims that the mark ZENSAR is exclusively identified with the Complainant's business and Complainant enjoys not only statutory rights but also common law rights in the mark ZENSAR.

The disputed domain name is identical or confusingly similar to the Trademark or Service Mark of the Complainant:

- The Complainant contends that the disputed domain name <zensar-technologies.com> is identical (the expression "technologies" being of a generic nature and of no significance) to the Complainant's registered mark ZENSAR for which the Complainant has registrations in India and other jurisdictions as detailed above.
- The Complainant contends that the disputed domain name gives an unmistakable impression as if the disputed domain name has something to do with the Complainant and/or its services.
- The Complainant further contends that the Respondent claims to be engaged in providing services that are similar to those offered by the Complainant. The Complainant in this regard, has reproduced the text published on the disputed domain name <zensar-technologies.com>, which is as under:

"Zensar Technologies is within the business of providing leading web Solutions, Software Solutions, IT integration and different wide go technological innovative solutions across the world. Its mission is to easily be the simplest in serving to businesses of all sizes flip their vision into worth. Our services and solutions information tailored to assist businesses become a lot of economical, profitable and effective in their service delivery."

The Respondent has no rights or legitimate interests in the disputed domain name:

- The Complainant contends that the Respondent is not connected with the Complainant in any manner and the Complainant has no knowledge of the Respondent. The Complainant has not authorized or permitted the Respondent either expressly or impliedly to apply for, register, or use the disputed domain name which incorporates the Complainant's registered mark ZENSAR.
- The Complainant also contends that the Respondent is not using the disputed domain name in connection with *bona fide* offering of goods or services. The Complainant contends that to the best of the Complainant's knowledge the Respondent is not conducting any meaningful business under the name and mark ZENSAR to warrant registration of the disputed domain name in its name. The Respondent is not commonly known by the disputed domain name.
- The Complainant further contends that the inquiries conducted on behalf of the Complainant have revealed that the address mentioned under the "Contact" section of the disputed domain name <zensar-technologies.com> is a fake and incorrect address. This establishes it beyond doubt that the Respondent has no legitimate rights and/or interests in the disputed domain name.

Bad faith registration and use of the disputed domain name by the Respondent

- The Complainant contends that the disputed domain name was registered and is being used in bad faith by the Respondent.
- The Complainant contends that the Respondent cannot possibly have any justification whatsoever for the adoption and use of the Complainant's well-known mark ZENSAR as part of the disputed domain name, which was created only in the year 2019.
- The Complainant also contends that the Respondent has registered the disputed domain name with intent to commercially gain and take undue advantage of the reputation and goodwill enjoyed by the Complainant in its world famous and well-known mark ZENSAR. This, individually and cumulatively

demonstrate and establish beyond doubt the bad faith of the Respondent.

- The Complainant further contends that the Respondent has complete knowledge of the Complainant and its well-known mark ZENSAR and despite the same the Respondent has registered and is using the disputed domain name in bad faith.
- The Complainant contends that anyone accessing the Internet is likely to associate the disputed domain name with the Complainant and is bound to entertain a belief as to a possible nexus between the Complainant and the Respondent. The Respondent's acts, in as much as it relates to registration and use of the disputed domain name are in clear violation of the statutory and common law rights of the Complainant.
- The Complainant contends that the bad faith on the part of the Respondent is further corroborated from the fact that the Respondent did not even bother to respond to the Complainant's letter/email dated March 9, 2022, in which the Respondent was called upon to cease use of the Complainant's mark ZENSAR in all forms and the Respondent is deliberately shielding its identity by availing the services of Domains By Proxy, LLC.

B. Respondent

- The Respondent did not file any formal reply to the Complainant's contentions. However, the Respondent sent an email on February 3, 2023, to the Center with copies to the Complainant and its attorneys, *inter alia*, stating that he did not have much knowledge about domain name purchase and how domain name law worked. The Respondent has stated that he has not been using the domain name and has deleted the content from the website, and that he had registered it for "learning purposes" and had not "harmed the reputation of Zensar technologies". The Respondent has expressed regret in this regard.

6. Discussion and Findings

A. Identical or Confusingly Similar

- The Panel finds that the Complainant has furnished evidence of its rights in the trademark ZENSAR through details of its trademark registrations and common law rights have accrued to it through its long and substantial use of the mark not only in India but certain other parts of the world. Details have been set out in Annexure 15 of the complaint giving the particulars of the application for grant of registration of ZENSAR in the name of the Complainant in various territories in the globe. Similarly, the particulars regarding application for grant of registration of ZENSAR in the name of the Complainant in India have been given in Annexure 16.
- The Panel observes that by virtue of its long-standing worldwide use, registrations and extensive publicity, the mark ZENSAR is exclusively identified with the Complainant's business and services. The Panel also observes that apart from statutory rights, the Complainant also enjoys common law rights in its well-known mark ZENSAR.
- The Panel has considered the documents submitted by the Complainant in support of its claim that the Complainant has been using and has various registrations for the trademark using the word "zensar". There does not appear to be any doubt that the Complainant is the owner of trademark ZENSAR.
- The Panel finds it useful to refer to the decision in the case of *Advance Magazine Publishers Inc. v. Voguechen*, WIPO Case No. [D2014-0657](#), holding that – "where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing."

- The disputed domain name includes the trademark ZENSAR in its entirety and the addition of the term “technologies” does not prevent a finding confusing similarity.
- The Complainant has therefore succeeded in establishing the first element of paragraph 4(a) of the Policy.

B. Rights or Legitimate Interests

- The second element requires the Complainant to make a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name.
- The Panel observes that the Complainant has made out a case proving its rights in the trademark ZENSAR. The Complainant enjoys goodwill and reputation for the marks registered by it. The Panel has no doubt that the disputed domain name incorporates the well-known and famous trademark ZENSAR of the Complainant by adding word “technologies” preceded by a hyphen “-“ to it. The Panel is of the view that such an attempt on the part of the Respondent is to create confusion and to cash on/ride over the name, goodwill and reputation of the Complainant. It would be appropriate to mention here that through its email dated February 3, 2023, the Respondent has expressed its regret in doing so.
- The Panel observes that the Respondent is in no way related to the Complainant or its business activities. The Respondent is neither an agent of the Complainant, nor does he carry out activities for the Complainant. The mark ZENSAR, indisputably vests in the Complainant as evidenced by various statutory registrations not only in India but other jurisdictions as well, secured by the Complainant.
- In the facts and circumstances of the present case, the Panel accepts and agrees that that the Respondent has not proved any *bona fide* use of the disputed domain name as he has failed to submit any appropriate and proper response to the contentions made by the Complainant.
- The Panel finds that the Respondent has no rights to or legitimate interests in the disputed domain name.
- The Complainant has therefore succeeded in establishing the second element of paragraph 4(a) of the Policy.

C. Registered and Used in Bad Faith

- Under the third element, the Complainant has to establish that the disputed domain name has been registered and is being used in bad faith by the Respondent.
- The Panel observes that the disputed domain name <zensar-technologies.com> is confusingly similar to the Complainant’s trademark ZENSAR and that it was registered well after the Complainant’s trademark.
- Noting the content of the website, the Panel finds that the Respondent was aware of the Complainant’s trademark and its existence.
- Regarding the use of the disputed domain name, it resolves to a website stating “Welcome to Zensar Technologies Generate your business leads with high performing website” which impersonates or suggests sponsorship or endorsement by the Complainant. Accordingly, the Respondent is using the disputed domain name to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant’s mark as described in paragraph 4(b)(iv) of the Policy.
- The Panel, therefore, finds that the disputed domain name was registered and being used in bad faith by the Respondent.

The Complainant has therefore succeeded in establishing the third element of paragraph 4(a) 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, <zensar-technologies.com>, be transferred to the Complainant.

/Maninder Singh/

Maninder Singh

Sole Panelist

Date: February 22, 2023