

ADMINISTRATIVE PANEL DECISION

ZO Skin Health, Inc. v. stevestrievl

Case No. D2023-0708

1. The Parties

The Complainant is ZO Skin Health, Inc., United States of America (“United States”), represented by ZwillGen PLLC, United States.

The Respondent is stevestrievl, China.

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 15, 2023. On February 16, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On February 16, 2023, 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 (“Unknown”), and from the Respondent identified by reference to Annex 1 to the Complaint (“Redacted for privacy, Dynadot Privacy Service”) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 17, 2023, 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 February 17, 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 February 24, 2023. In accordance with the Rules, paragraph 5, the due date for Response was March 16, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 17, 2023.

The Center appointed Jeremy Speres as the sole panelist in this matter on March 27, 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 a high-end medical-grade skincare company launched in 2006, selling its products in over one hundred countries. The Complainant trades under the ZO mark (and variations). The Complainant owns trade mark registrations for the ZO mark, and variations, in numerous jurisdictions including:

- United States trade mark registration No. 4,688,942 for ZO, in class 44, with registration date February 17, 2015; and
- Chinese trade mark registration No. 39613889 for ZO SKIN HEALTH, in class 3, with registration date May 14, 2021.

The Domain Name was registered on March 1, 2022, and currently does not resolve to an active website. The Complainant's evidence establishes that the Domain Name previously resolved to a website prominently headed "ZO SKIN HEALTH" purportedly offering the Complainant's products for sale, using the Complainant's imagery and logo, and featuring content relating to the Complainant's founder.

5. Parties' Contentions

A. Complainant

The Complainant contends that the Domain Name is confusingly similar to its ZO marks that the Respondent has no rights or legitimate interests in the Domain Name, and the Domain Name was registered and has been used in bad faith given that it has been used to impersonate the Complainant for the Respondent's commercial gain.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Complainant's registered ZO mark is wholly contained within the Domain Name as its first element with the addition of the geographic term "china" preceded by the term "skin", which is also used in the Complainant's ZO SKIN HEALTH trade mark. Where the trade mark is recognisable within the disputed domain name (as in this case), the addition of other terms (including descriptive and geographic terms) does not prevent a finding of confusing similarity (WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") at section 1.8). The Complainant has satisfied the requirements of paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Complainant's mark was registered and used extensively long prior to registration of the Domain Name. The Domain Name is confusingly similar to the Complainant's mark, the Complainant has certified that the Domain Name is unauthorised by it, and the Respondent did not file a Response.

The general impression created by the Domain Name's erstwhile website, including use of the Complainant's distinctive, trade marked logo, the Complainant's product imagery, product names and content relating to its founder, is one of impersonation of the Complainant. UDRP panels have categorically held that the use of a domain name for illegal activity (e.g., impersonation) can never confer rights or legitimate interests on a respondent ([WIPO Overview 3.0](#) at section 2.13.1). To the extent that the Domain Name's website might be considered that of a reseller of the Complainant's products, it does not meet the requirements of the well-known Oki Data test given that the site does not accurately and prominently disclose the Respondent's relationship with the Complainant (*Oki data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#); and [WIPO Overview 3.0](#) at section 2.8).

There is no evidence that any of the circumstances set out in paragraph 4(c) of the Policy, nor any others, which might confer rights or legitimate interests upon the Respondent, pertain. The Complainant has satisfied paragraph 4(a)(ii) of the Policy by virtue of having made out an unrebutted *prima facie* case ([WIPO Overview 3.0](#) at section 2.1).

C. Registered and Used in Bad Faith

In light of the facts canvassed above, the Domain Name's website clearly and intentionally impersonated the Complainant. In light of this and the composition of the Domain Name featuring an obvious reference to the Complainant's mark, the Respondent must have had the Complainant in mind when registering and using the Domain Name. It is clear in these circumstances that the Respondent sought to impersonate the Complainant for commercial gain, falling squarely within paragraph 4(b)(iv) of the Policy (*Ebay Inc. v. Wangming*, WIPO Case No. [D2006-1107](#)).

The Panel has independently established that the Respondent has been found, under the Policy, to have impersonated another prominent skincare producer. See *Elemis USA, Inc. v. Super Privacy Service LTD c/o Dynadot / stevestriewel*, WIPO Case No. [D2022-2933](#). The present case would appear to be a continuation of the Respondent's *modus operandi* exhibited in that earlier case, which is a further indicator of bad faith.

The Panel moreover draws an adverse inference from the Respondent's failure to take part in the present proceeding where an explanation is certainly called for ([WIPO Overview 3.0](#) at section 4.3).

The Complainant has satisfied 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 Domain Name, <zoskinchina.com>, be cancelled.

/Jeremy Speres/

Jeremy Speres

Sole Panelist

Date: March 29, 2023