

ADMINISTRATIVE PANEL DECISION

Akzo Nobel Coatings N.V. v. Maria Ines, Akzo
Case No. D2023-0792

1. The Parties

The Complainant is Akzo Nobel Coatings N.V., Netherlands, internally represented.

The Respondent is Maria Ines, Akzo, United States of America.

2. The Domain Name and Registrar

The disputed domain name <akzonobeil.com> (the “Domain Name”) is registered with Squarespace Domains LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 22, 2023. On February 22, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On February 23, 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 (Redacted for privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 28, 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 amendment to the Complaint on February 28, 2023.

The Center verified that the Complaint together with the amendment to the 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 March 6, 2023. In accordance with the Rules, paragraph 5, the due date for Response was March 26, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 28, 2023.

The Center appointed Olga Zalomiy as the sole panelist in this matter on March 31, 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 global paints and coatings company. The Complainant owns numerous trademark registrations for the AKZONOBEL trademark, such as:

- the United States registration No. 4069225 for the AKZONOBEL mark, registered on December 13, 2011.

The Respondent registered the Domain Name on February 13, 2023. The Domain Name resolves to a website under construction. The Respondent used the Domain Name to create an email address to impersonate one of the Complainant's employees to induce a payment to an unknown bank account.

5. Parties' Contentions

A. Complainant

The Complainant contentions can be summarized as follows:

The Domain Name is identical or confusingly similar to the Complainant's AKZONOBEL trademark because the only difference between the Domain Name and the Complainant's trademark is the letter "i" added next to the letter "l" in the Complainant's mark.

The Respondent has no rights or legitimate interests in respect of the Domain Name. The Complainant is the registered owner of the trademark and trade name AKZONOBEL, which is highly similar to the mark included in the Domain Name. The Complainant has historic and consistent use of the name AKZONOBEL, which is evident by its trademark registrations, active domain name registration and website and various company names. The Respondent has no *bona fide* reason or evidence in support to the contrary position.

The Domain Name was registered and is being used in bad faith because by using the Domain Name, the Respondent intentionally attempts to attract for commercial and financial gain, Internet users to the Respondent's website or other on-line location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website or location or of a product or service on the Respondent's website or location. In February of 2023, the Respondent used the Domain Name through an email address to pose as a Complainant's employee, in an attempt to induce a Complainant's customer to make a payment to an unknown bank account. The Respondent used the Complainant's name and its official website address in the signature line of its email to make it look more legitimate.

B. Respondent

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

6. Discussion and Findings

Pursuant to paragraph 4(a) of the UDRP, to succeed in this proceeding, the Complainant must prove each of the following elements with respect to the Domain Name:

- (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

Under the first UDRP element, the Complainant must prove that the Domain Name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights.

To satisfy the standing requirement, the Complainant asserts registered trademark rights to the AKZONOBEL mark. Pursuant to section 1.2.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), this satisfies the threshold requirement of having trademark rights for purposes of standing to file a UDRP case.

The Domain Name consists of the Complainant's AKZONOBEL trademark, the letter "i" and the generic Top-Level Domain ("gTLD") ".com". A domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element.¹ The gTLD is disregarded under the confusing similarity test.² The Respondent placed the letter "i" between letters "e" and "l" in the Complainant's mark to make it visually indistinguishable from the Complainant's trademark. Because the Domain Name consists of an intentional misspelling of the Complainant's mark and the gTLD ".com" is excluded from the confusing similarity analysis, the Panel finds the Domain Name is confusingly similar to the Complainant's AKZONOBEL mark.

The Complainant has satisfied the first element of the UDRP.

B. Rights or Legitimate Interests

To prove the second UDRP element, the Complainant must make out a *prima facie* case³ in respect of the lack of rights or legitimate interests of the Respondent.

Pursuant to paragraph 4(c) of the Policy, any of the following circumstances, in particular but without limitation, if found by the Panel to be proved based on the evidence, shall demonstrate a respondent's rights or legitimate interests to a domain name for the purposes of paragraph 4(a)(2) of the Policy:

- (i) before any notice of the dispute, the 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) the respondent (as an individual, business, or other organization) has been commonly known by the domain name, even if the respondent has acquired no trademark or service mark rights; or
- (iii) the 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 Respondent has not been commonly known by the Domain Name. There is no evidence that the Complainant authorizes the Respondent's use of the Complainant's trademark in the Domain Name. It is well established that the use of a domain name for illegal activity, such as impersonation, or other types of fraud "can never confer rights or legitimate interests on a respondent"⁴. Because the Respondent used the Domain Name in its impersonation of a Complainant's employee to defraud a Complainant's customer, such use of the Domain Name does not confer any rights or legitimate interests on the Respondent.

Based on the foregoing evidence, the Panel finds that the Complainant has made out a *prima facie* case in respect of the lack of rights or legitimate interests of the Respondent in the Domain Name. Once a

¹ Section 1.9, [WIPO Overview 3.0](#).

² Section 1.11, [WPO Overview 3.0](#).

³ Section 2.1, [WIPO Overview 3.0](#).

⁴ Section 2.13.1, [WIPO Overview 3.0](#).

complainant makes a *prima facie* case, the burden of production shifts to the respondent to come forward with appropriate allegations or evidence demonstrating rights or legitimate interests in the domain name.⁵ The Respondent has failed to do so, and, consequently, the Panel finds that in this proceeding the Complainant has satisfied paragraph 4(a)(ii) of the UDRP.

C. Registered and Used in Bad Faith

Pursuant to paragraph 4(a)(iii) of the Policy, the Complainant must prove that the Domain Name was registered and is being used in bad faith.

Paragraph 4(b) of the UDRP sets forth circumstances, which shall be considered evidence of the registration and use of a domain name in bad faith. The examples of bad faith registration and use set forth in paragraph 4(b) of the UDRP are not meant to be exhaustive of all circumstances from which such bad faith may be found. Prior UDRP panels have held that “the use of a domain name for purposes other than to host a website may constitute bad faith. Such purposes include sending email, phishing, identity theft, or malware distribution. [...] Many such cases involve the respondent’s use of the domain name to send deceptive emails, e.g., to obtain sensitive or confidential personal information from prospective job applicants, or to solicit payment of fraudulent invoices by the complainant’s actual or prospective customers”⁶.

Here, it is evident that the Respondent registered the Domain Name to use it for an email address for fraudulent purposes. Thus, the Respondent registered the Domain Name in bad faith.

The Respondent’s use of the Domain Name for an email address to send fraudulent emails to lure a third party into making payments to an unknown bank account purportedly belonging to the Complainant, constitutes bad faith use of the Domain Name. See, e.g., *Admiral Group Plc and EUI Limited v. Cimpres Schweiz, Cimpres Schweiz GmbH*, WIPO Case No. [DCO2017-0043](#), where the panel stated that, “[r]espondent has used the disputed domain name as a fake email address in order to impersonate the CFO of Complainant A and mislead some employees, recipients of the emails. The fraudulent intentions of the Respondent are hereby clearly unveiled, and enable the Panel to conclude that the disputed domain name is used in bad faith”. Similarly, the Respondent in this case used the Domain Name in attempt to defraud third parties of money by sending an email to a Complainant’s customer purportedly on behalf of a Complainant’s employee with instructions to send payments to an unknown bank account. Therefore, the Respondent is using the Domain Name in bad faith.

Because the Panel has found that the Respondent registered and is using the Domain Name in bad faith, the Complainant has established the third element of paragraph 4(a) of the UDRP.

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, <akzonobeil.com> be transferred to the Complainant.

/Olga Zalomiy/
Olga Zalomiy
Sole Panelist
Date: April 13, 2023

⁵ Section 2.1, [WIPO Overview 3.0](#).

⁶ Section 3.4, [WIPO Overview 3.0](#).