

ADMINISTRATIVE PANEL DECISION

F&H A/S v. Yumei Wang

Case No. D2023-2274

1. The Parties

The Complainant is F&H A/S, Denmark, represented by Aera A/S, Denmark.

The Respondent is Yumei Wang, China.

2. The Domain Name and Registrar

The disputed domain name <zonedenmarks.com> is registered with Name.com, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 25, 2023. On May 25, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 26, 2023, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 June 5, 2023. In accordance with the Rules, paragraph 5, the due date for Response was June 25, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 26, 2023.

The Center appointed Marilena Comanescu as the sole panelist in this matter on June 28, 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

Created in 1945 in Denmark, the Complainant evolved to one of the Scandinavia's leading brand house within the business segment of "Kitchen Living Dining". The Complainant has a broad portfolio of high-quality furnishings, including furniture, kitchenware, and other decorative and interior accessories. Currently the Complainant sells an assortment of over 15,000 products worldwide spread over 40 major brands.

One of the Complainant's known brand is ZONE DENMARK which is specialized in producing functional bathroom accessories, high quality design objects, home accessories, and kitchen utensils for everyday use.

The Complainant owns worldwide trademark registrations for ZONE DENMARK, such as the following:

- the European Union trademark number 003866183 for the figurative mark ZONE DENMARK, filed on June 11, 2004, registered on October 10, 2005, and covering goods in Nice classes 8, 11, 14, 16, and 21; and
- the International trademark registration number 1517573 for the word mark ZONE DENMARK, registered on January 8, 2020, and covering goods in Nice classes 8, 11, and 21.

The Complainant owns and promotes its goods on the websites "www.zonedenmarkshop.com" and "www.zonedenmark.design".

The disputed domain name <zonedenmarks.com> was registered on July 12, 2022, and, at the time of filing the Complaint, it was connected to a commercial website allegedly offering products displaying the Complainant's ZONE DENMARK trademarks, logos, website design, environmental pictures, and product images.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name is confusingly similar to its well reputed trademark ZONE DENMARK, that the Respondent has no rights or legitimate interests in the disputed domain name, and that the Respondent registered and is using the disputed domain name in bad faith.

B. Respondent

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

6. Discussion and Findings

In view of the Respondent's default, the discussion and findings will be based upon the contentions in the Complaint and any reasonable position that can be attributable to the Respondent. Under paragraph 4(a) of the Policy, a complainant can only succeed in an administrative proceeding under the Policy if the following circumstances are met:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights;
- (ii) the respondent has no rights or legitimate interests in the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

The Panel will further analyze the potential concurrence of the above circumstances.

A. Identical or Confusingly Similar

The Panel finds that the Complainant holds rights in the ZONE DENMARK trademark.

The disputed domain name <zonedenmarks.com> incorporates the Complainant's ZONE DENMARK trademark in its entirety with an additional final letter "s". However, such addition does not prevent a finding of confusing similarity as the Complainant's trademark is clearly recognizable within the disputed domain name.

Numerous UDRP panels have considered that the addition of other terms (whether geographical, descriptive, pejorative, meaningless, or otherwise) to trademarks in a domain name does not avoid a finding of confusing similarity. Also, 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 the purpose of the first element. See sections 1.8 and 1.9 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

Further, it is well established in decisions under the UDRP that the Top-Level-Domain ("TLD") (e.g., ".com", ".site", ".info", or ".shop") in a domain name may typically be disregarded for the purposes of consideration of confusing similarity between a trademark and a domain name. See section 1.11.1 of the [WIPO Overview 3.0](#).

Given the above, the Panel finds that the disputed domain name is confusingly similar to the Complainant's trademark ZONE DENMARK, pursuant to the Policy, paragraph 4(a)(i).

B. Rights or Legitimate Interests

The Complainant asserts that the Respondent does not hold any trademark rights, license, or authorization whatsoever to use the mark ZONE DENMARK, that the Respondent is not commonly known by the disputed domain name, and that the Respondent has not used the disputed domain name in connection with a legitimate noncommercial or fair use or a *bona fide* offering of goods or services.

In line with the case law, "where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element". See section 2.1 of the [WIPO Overview 3.0](#).

The Complainant has put forward a *prima facie* case that the Respondent does not have any rights or legitimate interests in the disputed domain name. The Respondent has not replied to the Complainant's contentions and has not come forward with relevant evidence to rebut the Complainant's *prima facie* case.

There is nothing in the record suggesting that the Respondent has ever been commonly known by the disputed domain name or that the Respondent made a *bona fide* offering of goods or services or a legitimate noncommercial or fair use under the disputed domain name.

In fact, at the time of filing the Complaint, the disputed domain name resolved to a commercial website featuring the ZONE DENMARK trademarks and offering purportedly ZONE DENMARK products for sale.

In certain cases, Panels have recognized that resellers, distributors, or service providers using a domain name containing the complainant's mark to undertake sales or repairs related to the complainant's goods and services may have a legitimate interest in such domain name. Relevant UDRP panel decisions in relation to this issue are helpfully summarized in section 2.8 of the [WIPO Overview 3.0](#) as follows:

Normally, a reseller, distributor, or service provider can be making a *bona fide* offering of goods and services and thus have a legitimate interest in the domain name if its use meets certain requirements. These requirements include the actual offering of goods and services at issue, the use of the site to sell only the trademarked goods, the site's accurately and prominently disclosing the registrant's relationship with the trademark holder, and the respondent not trying to "corner the market" in domain names that reflect the trademark.

This summary is based on *Oki Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#). At least one condition that is outlined has clearly not been satisfied by the Respondent in this case: at the time of filing the Complaint, on the website under the disputed domain name there was no accurate and clear information regarding the Respondent's (lack of) relationship with the Complainant. Further, images of the Complainant's trademarks and official pictures were displayed without any consent from the Complainant, thus generating a likelihood of confusion for the Internet users accessing the Respondent's website, and suggesting a false commercial relationship between the website under the disputed domain name and the Complainant.

For all these reasons, the Panel finds that the second element of the Policy is established, and the Respondent has no rights or legitimate interests in respect of the disputed domain name, pursuant to the Policy, paragraph 4(a)(ii).

C. Registered and Used in Bad Faith

The Complainant holds registered trademark rights for ZONE DENMARK since 2004 and, according to the evidence provided, the Panel is satisfied that the trademark acquired recognition in its industry.

The disputed domain name was created in July 2022 and incorporates the Complainant's mark in its entirety, with an additional final letter "s". Furthermore, it is used for a commercial website copying the look-and-feel of the Complainant's official websites.

For the above reasons, the Panel finds that the disputed domain name was registered in bad faith, with knowledge of the Complainant, its business and particularly targeting the Complainant's trademark.

The Respondent is using without permission the Complainant's trademark in order to get Internet traffic on its web portal and to obtain commercial gain from the false impression created for the Internet users with regard to a potential connection with the Complainant. This impression is created particularly by the incorporation of the Complainant's trademark in the disputed domain name, and the content on the website provided thereunder which includes the Complainant's trademarks, logo, and images of official products.

Paragraph 4(b)(iv) of the Policy provides that the use of a domain name to intentionally attempt "to attract, for commercial gain, Internet users to [the respondent's] website or other online 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" is evidence of registration and use in bad faith.

Given that the disputed domain name is almost identical to the Complainant's trademark and domain name, and the website operated under the disputed domain name displays the Complainant's trademarks, logos, website layout, official pictures and product images, indeed in this Panel's view, the Respondent intended to attract Internet users accessing the website corresponding to the disputed domain name who may be confused and believe that the website is held, controlled by, or somehow affiliated or related to the Complainant, for its commercial gain.

Further, the Respondent failed to provide a response to the Complainant's allegations and the physical address listed in the Whois was inaccurate or incomplete. Along with other circumstances in this case, such facts constitute a further sign of bad faith. See section 3.6 of the [WIPO Overview 3.0](#).

For all the above reasons, the Panel finds that the Respondent registered and is using the disputed domain name in bad faith, pursuant to the Policy, paragraph 4(a)(iii).

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 <zonedemarks.com> be transferred to the Complainant.

/Marilena Comanescu/

Marilena Comanescu

Sole Panelist

Date: July 4, 2023