

ADMINISTRATIVE PANEL DECISION

Trent Limited v. Nilesh Kumar Pandey Pandey
Case No. D2023-3604

1. The Parties

The Complainant is Trent Limited, India, represented by Fidus Law Chambers, India.

The Respondent is Nilesh Kumar Pandey Pandey, India.

2. The Domain Name and Registrar

The disputed domain name <zudioshopping.online> is registered with Hostinger, UAB (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 28, 2023. On August 28, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 29, 2023, 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 (Privacy Protect, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 29, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. On August 29, 2023, two brief emails were received from Respondent. The Complainant filed an amended Complaint on August 31, 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 September 6, 2023. In accordance with the Rules, paragraph 5, the due date for Response was September 26, 2023. Although no formal Response was filed with the Center, the Respondent sent further email on September 6, 2023.

The Complainant sent emails on September 8 and 12, 2023, regarding the possibility of settlement negotiations. On September 14, 2023, the Proceedings were suspended. On September 19, 2023, the Complainant sent an email to the Respondent (copying the Center, stating that “if you are willing to settle the present dispute, we request you to kindly sign the enclosed document at the place marked ‘Respondent’ and send the scanned version of the document to us by September 22, 2023 (Friday).”

On September 25, 2023, the Complainant sent an email to the Center stating that it had tried to settle the dispute with the Respondent on several occasions during the suspension period. However, it had not received any response from the Respondent. In the absence of any effective settlement, the Complainant requested the reinstatement of the WIPO dispute proceedings. On October 2, 2023, the proceedings were reinstated. The Response due date was recalculated to October 14, 2023. No official Response was filed. As such on October 17, 2023, the Center transmitted its Commencement of Panel Appointment Process email.

The Center appointed Meera Chature Sankhari as the sole panelist in this matter on November 3, 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 part of TATA group of companies and was originally incorporated as Lakme Limited ("Lakme") in 1952 and in 1998, it came to be known as Trent Limited. The Complainant is the registered proprietor of the trademark ZUDIO in classes 24, 25 and 35 since 2015, and is doing business in the field of apparel retailing. The Complainant also owns domain name registrations <zudio.com> and <zudio.in> registered since September 15, 2011, and October 20, 2015, respectively.

The Respondent is Nilesh Kumar Pandey. The disputed domain name was registered on June 28, 2023. The website at the disputed domain name was active at the time of the filing of this Complaint, and redirected consumers to third-party Amazon product listings. The disputed domain name currently resolves to an inactive page.

5. Parties' Contentions

A. Complainant

The Complainant asserts that owing to its long, continuous and extensive use of the mark ZUDIO since at least 2016, the general public and members of trade now recognize and associate the goods and services under the ZUDIO trademarks with the Complainant and none other. The Complainant also claims to have spent substantial time, effort, and money advertising and promoting the trademark ZUDIO.

The Complainant states that the disputed domain name <zudioshopping.online> was registered on June 28, 2023, i.e., several years after the Complainant secured its rights in the trademark ZUDIO. The disputed domain name leads to a website that is made to appear like a blog about the Complainant's products but included hyperlinks to third party websites, offering products for sale. These hyperlinks redirect users to third-party product listings on Amazon for potential purchases. The Respondent, as an Amazon affiliate, earned commissions on purchases made through the embedded weblinks on their website. The Complainant contends that the Respondent intended to gain illicit profit from the Complainant's trademark, ZUDIO.

The Complainant further asserts that the Respondent uses the customized links, under the Amazon affiliate marketing program and is thus profiting from each purchase made through these links, while also misleading and diverting the customers of the Complainant's trademark, ZUDIO. The Complainant neither sells products on Amazon nor has it authorized any third parties to do so, making the linked product listings unauthorized and counterfeit. Such indiscriminate linking to unauthorized Amazon products tarnishes the Complainant's ZUDIO trademark's reputation and goodwill.

B. Respondent

The Respondent did not submit any reply to the Complainant's contentions. However, the Respondent sent two emails, i.e., dated September 6, 2023, and September 10, 2023. In the email of September 6, 2023, the Respondent stated that "I don't intend to do anything wrong." On September 10, 2023, he wrote "Please forgive me if I have made any mistake... I did not intend to do anything wrong".

6. Discussion and Findings

To transfer the disputed domain name from the Respondent, the Complainant must prove the following elements as per paragraph 4(a) of the Policy:

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

Paragraph 15(a) of the Rules instructs the Panel to decide a complaint "on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable".

Further, since the Respondent has not submitted its response in the case at hand, this Panel finds it appropriate case to "decide the dispute based upon the complaint" as per paragraph 5(f) of the Rules read with paragraphs 14(a) and 14 (b) of the Rules.

Having considered the Complainant's case and the evidence available, the Panel finds as follows.

A. Identical or Confusingly Similar

The Complainant owns registered trademarks for its ZUDIO as well as the two "zudio" domain name registrations. The disputed domain name consists of the word ZUDIO, which forms a significant part of it.

Per section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), "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 addition of the term "shopping" does not prevent a finding of confusing similarity between the disputed domain name and the Complainant's trademark ZUDIO, per section 1.8 of the [WIPO Overview 3.0](#).

Per section 1.11.1 of the [WIPO Overview 3.0](#), the applicable Top Level Domain ("TLD") in a domain name (e.g., ".com", ".club", ".nyc"; here ".online") is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test.

Given the above, the Panel finds that the disputed domain name is confusingly similar to the Complainant's trademark ZUDIO and with that the Complainant has satisfied the elements required in paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Complainant has established statutory as well as common law rights in and to its trademark ZUDIO, and has supported the same through documentary evidence. Moreover, the Complainant has submitted that it has no affiliation with the Respondent and that it has neither permitted nor licensed the use of its ZUDIO mark to the Respondent.

The Panel finds that a *prima facie* case is made by the Complainant, pursuant to which, the burden shifts to the Respondent to come forward with appropriate response and relevant evidence demonstrating rights or legitimate interests in the disputed domain name.

The Respondent has failed to put forth any evidence establishing its rights over the word “zudio” or the disputed domain name. Further, there is nothing on the record to show that the Respondent is known as the disputed domain name.

Given the above, this Panel finds that the Complainant has established that the Respondent has no rights or legitimate interests in the disputed domain name (see *Deutsche Lufthansa AG v. Mustermann Max, Muster AG*, WIPO Case No. [D2015-1320](#); and *Legacy Health System v. Nijat Hassanov*, WIPO Case No. [D2008-1708](#)).

The Complainant is therefore deemed to have satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Panel concurs with the Complainant’s contention that the Respondent registered the domain name using the Complainant’s trademark ZUDIO and was redirecting users to third-party Amazon product listings to profit from the renown of the trademark commercially. The Complainant has established both statutory and common law rights in the trademark ZUDIO. The Complainant’s ZUDIO trademark is widely popular throughout India. The Respondent who is based in India is likely to have knowledge of the said trademark of the Complainant, its business and reputation. Therefore, the Respondent’s registration of the disputed domain name <zudioshopping.online>, using the term “shopping” clearly indicates the bad faith and ill-intentions of the Respondent to mislead and divert the Complainant’s customers who could easily have mistaken the disputed domain name as the Complainant’s online platform.

UDRP paragraph 4(b) provides that the following non-exclusive scenario constitutes evidence of a respondent’s bad faith: “by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to its 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”. The Panel finds that the above circumstances are present in this case. The Respondent’s bad faith intention is further demonstrated in hiding his identity by using a privacy service at the time of registration of the disputed domain name. See section 3.6 of the [WIPO Overview 3.0](#).

For all the foregoing reasons, the Panel concludes that the disputed domain name has been registered and is being used in bad faith pursuant to paragraph 4(b)(iv) 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, <zudioshopping.online> be transferred to the Complainant.

/Meera Chature Sankhari/

Meera Chature Sankhari

Sole Panelist

Date: November 8, 2023