

ADMINISTRATIVE PANEL DECISION

Trent Limited v. Vikash Kumar
Case No. D2024-1286

1. The Parties

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

The Respondent is Vikash Kumar, India.

2. The Domain Name and Registrar

The disputed domain name <tatazudiofranchise.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 March 26, 2024. On March 26, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same day, 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 (Registration Private) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 27, 2024, 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 March 27, 2024.

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 April 3, 2024. In accordance with the Rules, paragraph 5, the due date for Response was April 23, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on April 24, 2024.

The Center appointed Maninder Singh as the sole panelist in this matter on April 26, 2024. 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 part of Tata group of companies ("Complainant Group") headed by Tata Sons Private Limited which owns the trademark registration for well-known trademark TATA. The Complainant Group is engaged in various kinds of business which includes companies providing consultancy services, selling and manufacturing vehicles, steel products, chemicals products, consumer products, watches, electricity, hospitality services, communications, financial, and electronics.

The Complainant was originally incorporated as Lakme Limited ("Lakme") on December 5, 1952. The Complainant came to be known as Trent Limited in 1998 owing to company acquisition and amalgamation. The Complainant operates famous fashion brand ZUDIO through its 460 brick and mortar stores spread across India.

As noted above, earlier Lakme and now changed to Trent (i.e. the Complainant) are Tata Group companies. In the year 1996, the domain name <tata.com> was registered by Tata Sons Ltd., who is also the owner of the TATA trademark (e.g., India Trade Mark No. 1236890 filed on September 16, 2003, in class 35). The trademark ZUDIO was adopted by the Complainant in 2015. The Complainant's trademark ZUDIO is also a registered trademark in India under the Trade Marks Act, 1999. The Complainant has provided details of six trademark registrations in different classes in its Complaint (e.g., India Trade Mark No. 3078072 filed on October 13, 2015, in class 24, and India Trade Mark No. 3091978 filed on November 2, 2015, in class 24).

The Respondent has registered the disputed domain name <tatazudiofranchise.com> on January 10, 2024. The disputed domain name once resolved to an active website which was purportedly engaged in selling franchises of the Complainant's brand ZUDIO. However, the disputed domain name is now resolving to a parked page with no content.

5. Parties' Contentions

A. Complainant

The trademark TATA is inherently distinctive and is a strong identifier of source for the Complainant Group and its goods and services. The trademark TATA is the subject of a large number of trademark registrations in several countries around the world. The trademark TATA forms a part of the trade names of nearly all the companies under the Complainant Group.

Under its trademark ZUDIO, the Complainant has around 460 outlets offering a range of products such as garments and fashion accessories, cosmetics and perfumes, and household accessories. The Complainant also operates a website through the domain name <zudio.com> through which it provides the details of products it offers under its trademark ZUDIO. The Complainant owns the domain name <zudio.com> registered since September 15, 2011. The Complainant also owns the domain name <zudio.in> which was registered on October 20, 2015.

The disputed domain name is identical or confusingly similar to the trademark or service mark of the Complainant.

- Complainant contends that the disputed domain name completely subsumes the Complainant's and Complainant Group's trademarks ZUDIO and TATA. The Respondent registered the disputed domain name on January 10, 2024, which is several years after the trademark registrations and common law rights acquired by the Complainant and Complainant's Group in their trademarks ZUDIO and TATA.

- Complainant further contends that where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element. Hence, in the present case, the term “franchise” does not make the disputed domain name dissimilar to the Complainant’s and Complainant Group’s trademarks ZUDIO and TATA.

- The Complainant also contends that the addition of the word “franchise” in the disputed domain name further aggravates the confusing similarity. Internet users coming across the disputed domain name are bound to be misled and confused into thinking that it is a website offering legitimate franchising opportunities for Complainant’s brand ZUDIO.

- Complainant contends that the generic Top-Level Domain (“gTLD”) has to be excluded from analyzing confusing similarity under the first element of the Policy. Hence, the gTLD “.com” in the disputed domain name should not prevent the finding that it is confusingly similar to the Complainant’s and Complainant Group’s trademarks ZUDIO and TATA.

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

- Complainant contends that the Respondent was selling fake franchises of Complainant’s brand ZUDIO and has now parked the disputed domain name. There is no demonstrable preparation to use or actually use the disputed domain name in connection with any bona fide offering of goods or services.

- Complainant further contends that the Complainant has not authorized or licensed the Respondent to use any of its trademarks in any way. Such unlicensed and unauthorized use of the disputed domain name incorporating the Complainant’s and Complainant Group’s trademarks ZUDIO and TATA is solely with a view to divert consumers by misleading them, dupe the customers with fake franchises and to tarnish the trademarks of the Complainant and Complainant Group.

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

- Complainant contends that the primary aim of the Respondent is to dupe Internet users looking for franchise/business opportunities of the Complainant’s brand ZUDIO. The Respondent had hosted content related to offering fake franchises of Complainant’s brand ZUDIO and now has no content on the disputed domain name or using it for any bona fide offering of goods/services. This demonstrates that the Respondent has registered the disputed domain name in bad faith to extract some commercial advantage from the Complainant and/or from Complainant’s prospective franchisees/distributors.

- Complainant also contends that the Respondent’s intentions of subsuming the trademarks ZUDIO and TATA appears to be to attract Internet traffic, dupe Internet users looking for franchise opportunities with the Complainant or to commit the fraud of phishing.

- Complainant further contends that the Respondent registered the disputed domain name being fully aware of the well-known trademarks and domain names belonging to the Complainant as well as to the Complainant Group. Even constructive knowledge of a famous trademarks like ZUDIO and TATA is sufficient to establish registration in bad faith.

B. Respondent

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

6. Discussion and Findings

For this Complaint to succeed in relation to the disputed domain name, the Complainant is required to prove that:

- (i) the disputed 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 disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing test (or the threshold test) for determining confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7.

The Complainant has shown rights in respect of the trademark ZUDIO for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds that the entirety of the mark is reproduced / subsumed within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms, here "franchise", may bear on assessment of the second and third elements, the Panel finds the addition of the term "franchise" does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. As such, 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 (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

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. There is also no evidence that the Respondent is commonly known by the disputed domain name. The marks ZUDIO and TATA indisputably vest in the Complainant and the Complainant's Group as evidenced by various statutory registrations, secured by the Complainant and the Complainant's Group.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant's prima facie showing and has not come forward with any relevant evidence

demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

The Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel observes that there is virtually no possibility that the Respondent was unaware of the Complainant's trademark, its existence or presence in the market. In the present case, the Panel notes that the Respondent has registered and used the Domain Name by entirely incorporating Complainant's mark ZUDIO and Complainant Group's mark TATA in the disputed domain name, only with a view to deceive Internet users into believing that it is operated or authorized by the Complainant, and to attract Internet users by creating a likelihood of confusion with the Mark for commercial gain. Furthermore, the Respondent has used the Domain Name in a manner that so clearly targets the Complainant's registered trademarks that it amounts to opportunistic bad faith. The fact that the disputed domain name no longer resolves to an active website does not prevent a finding of bad faith. [WIPO Overview 3.0](#), section 3.3.

Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under 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 <tatazudiofranchise.com> be transferred to the Complainant.

/Maninder Singh/

Maninder Singh

Sole Panelist

Date: May 8, 2024