

## **ADMINISTRATIVE PANEL DECISION**

The Black & Decker Corporation v. Zhang Qiang  
Case No. D2024-3329

### **1. The Parties**

The Complainant is The Black & Decker Corporation, United States of America, internally represented.

The Respondent is Zhang Qiang, China.

### **2. The Domain Names and Registrar**

The disputed domain names <blackanddeckerisrael.com>, <blackanddeckerportugal.com>, <blackanddeckerspain.com>, <blackanddeckersuomi.com>, and <blackanddeckerturkey.com> are registered with Paknic (Private) Limited (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 14, 2024. On August 14, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On August 15, 2024, the Registrar transmitted by email to the Center its verification response confirming that 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 Respondent of the Complaint, and the proceedings commenced on August 26, 2024. In accordance with the Rules, paragraph 5, the due date for Response was September 15, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on September 16, 2024.

The Center appointed Richard C.K. van Oerle as the sole panelist in this matter on September 19, 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**

Stanley Black & Decker Corporation is a Fortune 500 company, specializing in hand tools, power tools, tool storage, and fastening systems, employing around 50,000 people across the globe and generating billions of dollars in revenue annually. Complainant is a wholly owned subsidiary of Stanley Black & Decker, Inc.

Complainant holds numerous trademark registrations for BLACK & DECKER, on a worldwide basis, inter alia:

- European Union Trademark Registration, registration No. 001239201, registered on July 11, 2000,
- Israel Trademark Registration, registration No. 25822, registered on November 2, 1967,
- Türkiye Trademark Registration, registration No. 2012/88520, registered on November 20, 2013,
- China Trademark Registration, registration No. 2015087, registered on November 21, 2003, where Respondent is apparently located.

All registrations have been duly renewed and are still valid. The registrations will jointly be referred to, in singular, as the "Trademark".

The disputed domain names were all registered on November 22, 2023. They resolve to websites that are unauthorized replicas or emulations of Complainant's websites, and ostensibly advertise Complainant's BLACK + DECKER branded products for sale at specified prices in the local currency of the country specified in the domain name.

#### **5. Parties' Contentions**

##### **A. Complainant**

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain names.

Notably, Complainant contends that all the disputed domain names commence with, and comprise mainly, the words "black and decker" (run together as "blackanddecker"). It is well known, and has been very well established in the English language, that the "&" symbol represents the word "and", has the meaning "and", and is pronounced "and". Consequently, the Trademark means and is pronounced as "black and decker". Therefore, all the disputed domain names commence with, wholly include, and comprise mainly, the Trademark both phonetically and in meaning. Each of the disputed domain names additionally includes, as a suffix before the standard and required ".com" domain name designation, the name of a country. Complainant submits that none of these country names is capable of distinguishing the disputed domain names from the Trademark.

In view of Complainant's very extensive and very longstanding global trademark rights and use of its Trademark, Complainant submits that prima facie Respondent can have no rights or legitimate interests in the disputed domain names. Respondent appears to be an individual with the name Zhang Qiang, and therefore no prima facie rights or legitimate interests in the disputed domain names can be discerned from Respondent's own name.

On the contrary, Respondent is making extensive criminal commercial use of each and every one of the disputed domain names, in extreme bad faith. Respondent's websites are unauthorized replicas or emulations of Complainant's websites, and ostensibly advertise Complainant's BLACK + DECKER branded products for sale at specified prices in the local currency of the country specified in the domain name. Clicking or tapping on a product page or image takes the customer to a payment page where they are invited to enter their credit card details to "purchase" the product. However, all the websites are an elaborate criminal scam, the websites are not genuine BLACK + DECKER websites, there are no genuine BLACK + DECKER products, and the customer's money and credit card details are stolen.

Complainant has received complaints regarding these websites, from its customers who understandably, but erroneously, believe the websites are genuine BLACK + DECKER websites.

Each of Respondent's disputed domain names was created after the date of registration of the Trademark, and for almost all of the hundreds of registrations for these trademarks around the world, many years or even decades after the date of registration.

Additionally, Complainant has over a hundred years of highly substantial use of the Trademark.

Furthermore, Respondent's disputed domain names wholly include the Trademark, in the form "blackanddecker", merely with the addition of non-distinguishing country name suffixes.

Each of Respondent's disputed domain names was created after the date of registration of the Trademark.

Additionally, Complainant has over a hundred years of highly substantial use of the Trademark. Furthermore, Respondent's disputed domain names wholly include the Trademark, merely with the addition of non-distinguishing country name suffixes.

Respondent's active websites at the disputed domain names are elaborate criminal scams which use extensive infringement of the Trademark, and extensive infringement of Complainant's copyright, to perpetrate fraud and theft.

Consequently, by both registering and using the disputed domain names, Respondent intentionally attempted to attract for criminal commercial gain, Internet users to Respondent's websites, by creating a likelihood of confusion with Complainant's Trademark and websites as to the source, sponsorship, affiliation, or endorsement of Respondent's websites, and products advertised for sale on Respondent's websites.

Complainant also notes that Respondent is a prolific offender regarding misuse of domain names and third-party trademarks.

Complainant requests for the transfer of the disputed domain names.

## **B. Respondent**

Respondent did not reply to Complainant's contentions.

## **6. Discussion and Findings**

Paragraph 4(a) of the Policy provides that a complainant must prove each of the following elements in order to succeed in its Complaint:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights;
- (ii) 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.

The burden of proof of each element is borne by Complainant. Respondent's default does not by itself mean that Complainant is deemed to have prevailed. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (["WIPO Overview 3.0"](#)), section 4.3.

## **A. Identical or Confusingly Similar**

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

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

The Panel finds the Trademark is recognizable within the disputed domain names. Accordingly, the disputed domain names are identical and or confusingly similar to the Trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

The disputed domain names incorporate the Trademark with the mere addition of a country name. Complainant's Trademark remains recognizable within the disputed domain names, the omission of the ampersand or its conversion to the word "and" and the addition of other terms does not prevent a finding of confusing similarity. [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 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.

Having reviewed the available record, the Panel finds Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the disputed domain names. Respondent has not rebutted Complainant's prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain names such as those enumerated in the Policy or otherwise.

Panels have held that the use of a domain name for illegal activity (here, claimed impersonation/passing off, and wheedling out personal and credit card data) can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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

## **C. Registered and Used in Bad Faith**

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, the Panel notes that each disputed domain name was created after the date of registration of the Trademark. Additionally, Complainant has over a hundred years of highly substantial use of the Trademark. Furthermore, Respondent's disputed domain names include the Trademark, merely with the addition of non-distinguishing country names. The Panel therefor finds that Respondent registered the disputed domain names in bad faith.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Panels have held that the use of a domain name for illegal activity (here, claimed impersonation/passing off, and wheedling out personal and credit card data) constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds Respondent's registration and use of the disputed domain names constitutes bad faith under the Policy.

Consequently, by both registering and using the disputed domain names, Respondent intentionally attempted to attract for criminal commercial gain, Internet users to Respondent's websites, by creating a likelihood of confusion with Complainant's Trademark and websites as to the source, sponsorship, affiliation, or endorsement of Respondent's websites, and products advertised for sale on Respondent's websites.

Moreover, the Panel's limited independent search has revealed that Respondent has been involved in at least eleven UDRP procedures as respondent (e.g. *MTD Products Inc v. Zhang Qiang*, WIPO Case No. [D2024-2501](#); *Tricots Saint-James, SAS v. Zhang Qiang*, WIPO Case No. [D2024-2382](#); *Black Diamond Equipment, Ltd v. Zhang Qiang*, WIPO Case No. [D2024-2009](#); *Tiger of Sweden AB v. Zhang Qiang*, WIPO Case No. [D2024-1961](#); *10days Wholesale B.V. v. Scott Clarke / Zhang Qiang*, WIPO Case No. [D2024-1896](#); *Aldo Group International GmbH v. Zhang Qiang*, WIPO Case No. [D2024-1311](#); *Kybun Joya Retail AG v. Zhang Qiang*, WIPO Case No. [D2024-0824](#); *R.C. Trademarks S.r.l., Giovanni Caldarelli, Essedi S.p.A. v. Zhang Qiang*, WIPO Case No. [D2024-0809](#); *Frankie Shop LLC v. Zhang Qiang*, WIPO Case No. [D2024-0776](#); *10Days Wholesale B.V. v. Zhang Qiang*, WIPO Case No. [D2024-0732](#); *Peter Millar LLC v. Zhang Qiang*, WIPO Case No. [D2024-0644](#)).

Remarkable in this regard is, that in all these cases the involved domain names were composed of a trademark followed by the name of a country, just as in this case. Each time it was held bad faith registration and use.

In the view of the Panel, this behavior demonstrates a pattern of conduct by Respondent of taking advantage of trademarks of third parties without any right to do so and is indicative of Respondent's bad faith. Previous UDRP panels have held that establishing a pattern of bad faith conduct requires more than one, but as few as two instances of abusive domain name registration, see [WIPO Overview 3.0](#), section 3.1.2. Although each case must be judged on its own merits, this circumstance reinforces the Panels finding of bad faith in the present case.

The Panel finds that Complainant has established the third element 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 names <blackanddeckerisrael.com>, <blackanddeckerportugal.com>, <blackanddeckerspain.com>, <blackanddeckersuomi.com>, and <blackanddeckerturkey.com> be transferred to the Complainant.

*/Richard C.K. van Oerle/*

**Richard C.K. van Oerle**

Sole Panelist

Date: September 25, 2024