

ADMINISTRATIVE PANEL DECISION

Matter Labs v. Vincent Alex, Valex
Case No. D2024-3415

1. The Parties

The Complainant is Matter Labs, Cayman Islands, United Kingdom, represented by Frankfurt Kurnit Klein & Selz, PC, United States of America (“United States”).

The Respondent is Vincent Alex, Valex, Indonesia.

2. The Domain Name and Registrar

The disputed domain name <zksyncid.xyz> 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 August 21, 2024. On August 22, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 22, 2024, 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 (Private Protect, LLC, PrivacyProtect.org Business Development) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 2, 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 amended Complaint on September 4, 2024.

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, 2024. In accordance with the Rules, paragraph 5, the due date for Response was September 26, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 2, 2024.

The Center appointed Knud Wallberg as the sole panelist in this matter on October 4, 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, Matter Labs was established in 2019. Under its ZKSYNC Mark, the Complainant offers a solution to scalability problems with the blockchain technology by making the transactions processed on the blockchain through the use of the ZKSYNC product faster and cheaper.

The Complainant owns a number of trademark registrations for the ZKSYNC Mark in multiple jurisdictions. These include United States Reg. No. 6531780, filed on April 3, 2020, and registered on October 19, 2021 for goods in class 9 and European Union Trade Mark No. 018829955, filed on January 30, 2023 and registered on May 17, 2023 for goods and services in classes 9 and 42.

The Complainant also owns a number of pending trademark applications for the ZKSYNC Mark in multiple jurisdictions including Indonesia Application No. DID2024037229 for ZKSYNC, filed on May 3, 2024 for goods and services in classes 9, 36 and 42.

The disputed domain name was registered on March 26, 2023. At the time of filing of the complaint the disputed domain name resolved to a web page on which it was inter alia claimed that it offered “superpowering the finance infrastructure on zkSync with decentralised id”. At present the disputed domain name does not seem to be used actively.

5. Parties’ Contentions

A. Complainant

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

Notably, the Complainant contends that the disputed domain name is confusingly similar the Complainant’s ZKSYNC mark since it contains this mark in its entirety with the addition of the two letters “id”.

The Complainant furthermore contends that the Respondent is not commonly known by the disputed domain name or by the ZKSYNC mark, and that the Respondent has not acquired any legitimate trademark or service rights in the disputed domain name.

The Complainant finally contends that the Respondent registered and has used the disputed domain name in bad faith. The disputed domain name was registered and used by the Respondent well-after the Complainant had developed significant recognition, popularity, and goodwill in the ZKSYNC Mark.

B. Respondent

The Respondent did not reply to the Complainant’s contentions

6. Discussion and Findings

According to paragraph 15(a) of the Rules the Panel shall decide the Complaint in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

Paragraph 4(a) of the Policy directs that a complainant must prove each of the following:

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

Paragraph 4(a) of the Policy states that the burden of proving that all these elements are present lies with the Complainant. At the same time, in accordance with paragraph 14(b) of the Rules, if a party, in the absence of exceptional circumstances, does not comply with any provision of, or requirement under, the Rules, or any request from the Panel, the Panel shall draw such inferences therefrom as it considers appropriate.

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 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 a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark is reproduced 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, "id", may bear on assessment of the second and third elements, the Panel finds the addition of such term 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 generic Top-Level-Domain ("gTLD") ".xyz" is a standard registration requirement and as such is disregarded under the first element confusing similarity test. See section 1.11.1 of the [WIPO Overview 3.0](#).

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.

Having reviewed the available record, it is evident that the Complainant has not licensed or otherwise permitted the Respondent to use the trademark ZKSYNC, and 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 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, given the circumstances of the case, including the coined nature of the Complainant's trademark ZKSYNC and the way that the disputed domain name has been used, it is obvious to the Panel in the current circumstances that the Respondent registered the disputed domain name in bad faith.

The disputed domain name has been used for a website, which clearly gave Internet users the impression that the website offered a service that purported to be authorized by the Complainant. Since this is not the case the Panel finds that there can be no doubt that the disputed domain name has been used in bad faith 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". The fact that the website appears to be unavailable at present does not alter this finding.

Noting that the disputed domain name incorporates the Complainant's distinctive trademark ZKSYNC; that the Respondent has not replied to the Complainant's contentions; and that there appears to be no conceivable good faith use that could be made by the Respondent of the disputed domain name, and considering all the facts and evidence of the case, the Panel finds that the requirements of paragraph 4(a)(iii) of the Policy are also fulfilled in this case.

The Panel finds that the 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 name <zksyncid.xyz> be transferred to the Complainant.

/Knud Wallberg/

Knud Wallberg

Sole Panelist

Date: October 18, 2024