

## **ADMINISTRATIVE PANEL DECISION**

Swedish Match North Europe AB, Philip Morris International, Inc. v. xiang zheng, Alico Enterprise Pte. Ltd., xiang zheng, juxs jttkbdeitnx  
Case No. D2024-4487

### **1. The Parties**

The Complainants are Swedish Match North Europe AB, Sweden (the “First Complainant”), and Philip Morris International, Inc., United States of America (“United States”) (the “Second Complainant”), represented by D.M. Kisch Inc., South Africa.

The Respondents are xiang zheng, Alico Enterprise Pte. Ltd., Singapore, xiang zheng, China, and juxs jttkbdeitnx, China.

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

The disputed domain names <zyngo.shop> and <zynpouch.store> are registered with West263 International Limited. The disputed domain name <zynshopping.com> is registered with GoDaddy.com, LLC. West263 International Limited and GoDaddy.com, LLC are separately and collectively referred to below as the “Registrar”.

### **3. Procedural History**

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on October 31, 2024. On the same day, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On October 31, 2004, and November 4, 2024, the Registrar transmitted by email to the Center its verification responses disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (Private Registrations) and contact information in the Complaint. The Center sent an email communication to the Complainants on November 5, 2024, providing the registrant and contact information of nominally multiple underlying registrants revealed by the Registrar, requesting the Complainants to either file separate complaints for the disputed domain names associated with different underlying registrants or alternatively, demonstrate that the underlying registrants are in fact the same entity and/or that all disputed domain names are under common control. The Complainants filed an amended Complaint in English on November 9, 2024.

On November 5, 2024, the Center informed the Parties in Chinese and English, that the language of the Registration Agreements for the disputed domain names <zynpouch.store> and <zyngo.shop> is Chinese.

On November 6, 2024, the Complainants requested English to be the language of the proceeding. The Respondents did not comment on the language of the proceeding.

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 Respondents in Chinese and English of the Complaint, and the proceedings commenced on November 13, 2024. In accordance with the Rules, paragraph 5, the due date for Response was December 3, 2024. The Respondents did not submit any response. Accordingly, the Center notified the Respondent’s default on December 4, 2024.

The Center appointed Matthew Kennedy as the sole panelist in this matter on December 9, 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 First Complainant is a wholly-owned subsidiary of the Second Complainant. Founded in 1992, the First Complainant is primarily engaged in the business of manufacturing, marketing, and selling smoke-free tobacco products, including nicotine pouches marketed under the brand ZYN. The First Complainant holds multiple trademark registrations, including:

- International trademark registration number 1421212 for ZYN, registered on April 18, 2018, specifying goods in class 34; and
- International trademark registration number 1411950 for a semi-figurative ZYN mark (the “ZYN logo”), registered on April 18, 2018, specifying goods in class 34.

These trademark registrations are in force. The First Complainant has also registered the domain name <swedishmatch.com> where it provides information about itself and its products, including ZYN nicotine pouches.

The Respondents are identified variously as an individual, the same individual and a company, and a name that is manifestly false.

The disputed domain names were registered on the following dates in the following names:

Date of Registration	Disputed Domain Name	Registrant
September 4, 2024	<zynshopping.com>	xiang zheng, Alico Enterprise Pte. Ltd.
September 6, 2024	<zynpouch.store>	xiang zheng
September 20, 2024	<zyngo.shop>	juxs jttkbdeitnx

According to the evidence presented by the Complainant, as at September 13, 2024, the disputed domain name <zynshopping.com> resolved to a website in English titled “Zynin” that offered for sale women’s clothing. Prices were displayed in USD. Under the heading “Our Story” there was some brief information about the store. Since at least October 25, 2024, this disputed domain name has resolved to a webpage titled Z\*\*\*N with the notice “This store is under construction”.

According to the evidence presented by the Complainant, as at October 11, 2024, the disputed domain name <zynpouch.store> resolved to a website in English displaying the ZYN logo, offering the Complainant’s ZYN nicotine pouches for sale according to various flavors, and providing information about ZYN pouches and

flavors. Prices were displayed in USD. Since at least October 25, 2024, this disputed domain name has resolved to the same “Under construction” webpage as the disputed domain name <zynshopping.com>.

According to the evidence presented by the Complainant, as at October 25, 2024, the disputed domain name <zynngo.shop> resolved to a website in English titled “Clotore” displaying images of women’s clothing and offering them for sale. Each image was captioned in the following terms: “Prinic New flavor[number] ZYN.” Prices were displayed in USD. Under the heading “Our Story”, the website displayed the same information as the website formerly associated with the disputed domain name <zynshopping.com>. On the “About Us” tab, the business was described as one of procuring any type of custom product. The Terms of service left blank the name of the operator of the site. At the time of this Decision, this disputed domain name no longer resolves to any active website; rather, it is passively held.

## **5. Parties’ Contentions**

### **A. Complainants**

The Complainants contend that they have satisfied each of the elements required under the Policy for a transfer of the disputed domain names.

Notably, the Complainants contend that the disputed domain names are confusingly similar to the ZYN trademark. The Respondents have no rights or legitimate interests in respect of the disputed domain names. The Complainants have not licensed or otherwise permitted the Respondents to use any trademarks or to register a domain name incorporating the ZYN trademark. The Respondents are not only offering the Complainants’ products but third party products of other known and unknown commercial origin. The disputed domain names were registered and are being used in bad faith.

### **B. Respondents**

The Respondents did not reply to the Complainants’ contentions.

## **6. Discussion and Findings**

### **6.1. Preliminary Issues**

#### **A. Consolidation: Multiple Complainants**

The Complaint and amended Complaint were filed by two complainants. The First Complainant is a wholly-owned subsidiary of the Second Complainant. The Panel finds that the Complainants have a common grievance against the disputed domain name registrants and that it is efficient to permit the consolidation of their complaints. Therefore, the Complainants are referred to below separately and collectively as “the Complainant” except as otherwise indicated.

#### **B. Consolidation: Multiple Respondents**

The amended Complaint was filed in relation to nominally different domain name registrants. The Complainant alleges that the domain name registrants are under common control. The Complainant requests the consolidation of the Complaint against the multiple disputed domain name registrants pursuant to paragraph 10(e) of the Rules.

The disputed domain name registrants did not comment on the Complainant’s request.

Paragraph 3(c) of the Rules states that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder.

In addressing the Complainant's request, the Panel will consider whether (i) the disputed domain names or corresponding websites are subject to common control; and (ii) the consolidation would be fair and equitable to all Parties. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)), section 4.11.2.

As regards common control, the Panel notes that the disputed domain names <zynshopping.com> and <zynpouch.store> are registered in the same individual's name and have the same contact telephone number and email address, although one is also registered in the name of a company. The disputed domain name <zyngo.shop> was registered in a name that is manifestly false, only two weeks after the disputed domain name <zynpouch.store>, with the same Registrar and following the same naming pattern, plus the associated website displays the same "Our Story" text as that displayed on the website formerly associated with the disputed domain name <zynshopping.com>. In view of these circumstances, the Panel finds that all three disputed domain name registrants are the same entity or under common control.

As regards fairness and equity, the Panel sees no reason why consolidation of the disputes would be unfair or inequitable to any Party.

Accordingly, the Panel decides to consolidate the disputes regarding the nominally different disputed domain name registrants (referred to below as "the Respondent") in a single proceeding.

### **C. Language of the Proceeding**

The language of the Registration Agreements for the disputed domain names <zynpouch.store> and <zyngo.shop> is Chinese. Pursuant to the Rules, paragraph 11(a), in the absence of an agreement between the parties, or unless specified otherwise in the registration agreement, the language of the administrative proceeding shall be the language of the registration agreement.

The Complaint and amended Complaint were filed in English. The Complainant requested that the language of the proceeding be English for several reasons, including the fact that the websites associated or formerly associated with the disputed domain names are all in English, showing that the Respondent understands that language.

Despite the Center having sent an email regarding the language of the proceeding and the notification of Complaint in both Chinese and English, the Respondent did not make any submissions with respect to the language of the proceeding or express any interest in otherwise participating in this proceeding.

In exercising its discretion to use a language other than that of the registration agreement, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both parties, taking into account all relevant circumstances of the case, including matters such as the parties' ability to understand and use the proposed language, time and costs. See [WIPO Overview 3.0](#), section 4.5.1.

Having considered all the matters above, the Panel determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English. The Panel would have accepted a Response in Chinese, but none was filed.

### **6.2. Substantive Issues**

Paragraph 4(a) of the Policy provides that a complainant must prove each of the following elements with respect to each disputed domain name:

(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 (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. See [WIPO Overview 3.0](#), section 1.7.

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

The disputed domain names all wholly incorporate the ZYN mark as their initial element. They add other words (variously "go", "pouch", and "shopping") but despite these additions the ZYN mark is clearly recognizable within all the disputed domain names. The only additional element in each disputed domain name is a generic Top-Level Domain ("gTLD") extension (variously, ".com", ".shop" or ".store") which, as a standard requirement of domain name registration, may be disregarded in the assessment of confusing similarity. Accordingly, the disputed domain names are all confusingly similar to the ZYN mark for the purposes of the Policy. See [WIPO Overview 3.0](#), sections 1.7, 1.8, and 1.11.1.

Therefore, the Panel finds the first element of the Policy has been established with respect to all disputed domain names.

### **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. See [WIPO Overview 3.0](#), section 2.1.

The disputed domain name <zynpouch.store> formerly resolved to a website displaying the Complainant's ZYN logo, offering the Complainant's ZYN pouches for sale, and providing information about ZYN pouches and flavors. The website gave the impression that it was operated by, or affiliated with, the Complainant. However, the Complainant submits that it has not licensed or otherwise permitted the Respondent to use any trademarks or to register a domain name incorporating the ZYN trademark. The disputed domain name <zynshopping.com>, which is confusingly similar to the ZYN trademark, formerly resolved to a website offering third party products for sale apparently under the brand "Zynin". At the time of this Decision, both these disputed domain names resolve to an "Under construction" webpage. The disputed domain name <zyngo.shop> has resolved ostensibly to an online store titled "Clotore" in which the product images (women's clothing), the product names (in the format of "Prinic New flavor[number] ZYN"), and the description of the business on the "About Us" page (procuring any type of custom product) did not correspond to each other. The Terms of service also left blank the name of the operator of the site. These circumstances give the Panel reason to find that this online store was most likely a sham. Accordingly, the Panel finds that none of the disputed domain names is being used in connection with a bona fide offering of goods and services. Nor is any of these uses a legitimate noncommercial or fair use of the disputed domain names. Further, nothing on the record indicates that the Respondent has been commonly known by any of the disputed domain names.

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 names. 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 names such as those enumerated in the Policy or otherwise.

Based on the record, the Panel finds the second element of the Policy has been established with respect to all the disputed domain names.

### **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. The fourth circumstance is as follows:

“(iv) by using the [disputed] domain name, [the respondent has] intentionally attempted 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] web site or location.”

All three disputed domain names were registered in 2024, years after the registration of the Complainant's ZYN trademarks. The ZYN trademark is a coined term. Each of the disputed domain names has no apparent meaning other than as a combination of that trademark and a common English word plus a gTLD extension. The disputed domain name <zynpouch.store> includes the word “pouch”, which indicates an awareness of the Complainant's ZYN product, and it formerly resolved to a website displaying the Complainant's ZYN logo and images of the Complainant's ZYN tobacco pouches. The disputed domain name <zyngo.shop> has displayed product names that combined “flavor” with ZYN, also indicating an awareness of the nature of the Complainant's products. The disputed domain names were all registered within a short period of time of each other, and the Panel has already found in Section 6.1B above that they are all under common control. The Respondent provides no explanation for its registration of any of the disputed domain names. In these circumstances, the Panel finds that the disputed domain names were all registered with the Complainant's ZYN mark in mind.

As regards use, the disputed domain name <zynpouch.store> formerly resolved to a website displaying the Complainant's ZYN logo, offering the Complainant's ZYN pouches for sale, and providing information about ZYN pouches and flavors. The website gave the false impression that it was operated by, or affiliated with, the Complainant. The disputed domain name <zynshopping.com> formerly resolved to a website offering third party products for sale apparently under the brand “Zynin” but this did not correspond to the disputed domain name. The disputed domain name <zyngo.shop> formerly resolved to a website in English titled “Clotore” purportedly selling women's clothing with product descriptions in the format of “Prinic New flavor[number] ZYN.” Even though Internet users would realize that the websites at the disputed domain names <zyngo.shop> and <zynshopping.com> were apparently offering for sale third party products when they reached them, by that stage these disputed domain names would have diverted them. In the Panel's view, the uses of these disputed domain names fall within the terms of paragraph 4(b)(iv) of the Policy.

The use of the disputed domain names has recently changed. Two disputed domain names now resolve to an “Under construction” webpage and the other is passively held. These changes in use do not alter the Panel's conclusion; if anything, they are further indications of bad faith.

Therefore, the Panel finds that the Complainant has established the third element of the Policy with respect to all three disputed domain names.

## 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 <zyngo.shop>, <zynpouch.store>, and <zynshopping.com> be transferred to the Complainant.

*/Matthew Kennedy/*

**Matthew Kennedy**

Sole Panelist

Date: December 20, 2024