



Asian Domain Name Dispute Resolution Centre

beijing

ADMINISTRATIVE PANEL DECISION

Case No. CN-2301556

Complainant: Zoom Video Communications, Inc.

Respondent: Chen Yun Chen Yun

Domain Name: zoomcna.com

Registrar: Web Commerce Communications Limited dba WebNic.cc

1. Procedural History

On 31 May 2023, the Complainant submitted a Complaint in English to the Beijing Office of the Asian Domain Name Dispute Resolution Center (the ADNDRC Beijing Office) and elected this case to be dealt with by a one-person panel, in accordance with the Uniform Domain Name Dispute Resolution Policy (the Policy) and the Rules for Uniform Domain Name Dispute Resolution Policy (the Rules) approved by the Internet Corporation for Assigned Names and Numbers (ICANN), and the ADNDRC Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the ADNDRC Supplemental Rules) approved by the ADNDRC.

On 5 June 2023, the ADNDRC Beijing Office sent to the Complainant by email an acknowledgement of the receipt of the Complaint and transmitted by email to ICANN and the Registrar, Web Commerce Communications Limited dba WebNic.cc, a request for registrar verification in connection with the disputed domain name.

On 5 June 2023, the Registrar transmitted by email to the ADNDRC Beijing Office its verification response, confirming that the Respondent is listed as the registrant and providing the contact details. On the same day, the ADNDRC informed the Complainant of the Respondent's information and requested the Complainant to revise its submission.

On 7 June 2023, the Complainant revised its submission.

On 9 June 2023, the ADNDRC notified the Complainant that the Complaint has been confirmed and transmitted to the Respondent and the case officially commenced. On the same day, the ADNDRC Beijing Office transmitted the Written Notice of the Complaint to the Respondent, which informed that the Complainant had filed a

Complaint against the disputed domain name and the ADNDRC Beijing Office had sent the complaint and its attachments through email according to the Rules and the Supplemental Rules. On the same day, the ADNDRC Beijing Office notified ICANN and registrar, Web Commerce Communications Limited dba WebNic.cc, of the commencement of the proceedings.

The Respondent failed to submit a Response within the specified time period. On 30 June 2023, the ADNDRC Beijing Office notified the Respondent's default. Since the Respondent did not mention the Panel selection in accordance with the time specified in the Rules, the ADNDRC Supplemental Rules, and the Notification, the ADNDRC Beijing Office informed the Complainant and the Respondent that the ADNDRC Beijing Office would appoint a one-person panel to proceed to render the decision.

Having received a Declaration of Impartiality and Independence and a Statement of Acceptance from Dr. Timothy Sze, the ADNDRC Beijing Office notified the parties on 30 June 2023 that the Panel in this case had been selected, with Dr. Timothy Sze acting as the sole panelist. The Panel determines that the appointment was made in accordance with Paragraph 6 of the Rules and Articles 8 and 9 of the Supplemental Rules.

On 30 June 2023, the Panel received the file from the ADNDRC Beijing Office and should render the Decision within 14 days, i.e., on or before 14 July 2023.

Pursuant to Paragraph 11 (a) of the Rules, unless otherwise agreed by the Parties, or specified otherwise in the Registration Agreement, the language of the administrative proceeding shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding. The language of the current disputed domain name Registration Agreement is English, thus the Panel determines English as the language of the proceedings.

2. Factual Background

A. The Complainant

The Complainant in this case is Zoom Video Communications, Inc. The registered address is 6th Floor 55 Almaden Blvd. San Jose California 95113, USA. The authorized representative in this case is Elian Xue.

B. The Respondent

The Respondent in this case is Chen Yun Chen Yun. The registered address is Wu Hu, Anhui, China, 241006.

The Respondent is the current registrant of the disputed domain name "zoomcna.com", which was registered on 6 June 2022 according to the WHOIS

information. The registrar of the disputed domain name is Web Commerce Communications Limited dba WebNic.cc

3. Parties' Contentions

A. The Complainant

The Complainant, Zoom Video Communications, Inc., enjoys trademark right and trade name right over "zoom" and enjoy right and interests over its domain name "zoom.us". The disputed domain name is similar to the Complainant's registered trademark "zoom", trade name "zoom" and main part of the domain name "zoom.us". The Complainant's registered trademarks, its trade name and prior domain name are as followed.

Trademark	Reg. No.	Class	App. Date	Valid period	Reg. Country
zoom	30599729	38	April 28, 2018	From 2019-02-21 to 2029-02-20	China
zoom	35999131	38	January 17, 2019	From 2019-09-21 to 2029-09-20	China

Trademark "zoom" registered in China under Reg. No. 30599729 in Class 38 with the designated services on "Internet service provider [ISP] services; Provision of video conferencing services; Video conference communications; Mobile phone communications; Information transmission in the audiovisual field; Computer telephone services; Computer terminal communications; Computer aided transmission of message and images; Transmission of information via video communication system; Electronic transmission of mail and information".

Trademark "zoom" registered in China under Reg. No. 35999131 in Class 38 with the designated services on "Provision of video conferencing services; Internet service provider [ISP] services; Teleconferencing services; Mobile telephone communications; Video conferencing services; Computer telephone services; Computer terminal communications; Computer aided transmission of messages and images; Transmission of information through video communication systems; Electronic transmission of mail and message".

"zoom" is the trade name of the Complainant and was originally created by the Complainant with high distinctiveness. "zoom" has been used continuously and widely as the trade name of the Complainant since 2012. The Complainant enjoys prior trade name right over "zoom".

"zoom.us" is the prior domain name of the Complainant, which was registered on April 24, 2002. The Complainant enjoys interests over the domain name. The Complainant

put the domain in commercial use and it can direct into the Complainant's official websites. The creation date of the Complainant's domain is far earlier than the registration date of the disputed domain name.

(i) The disputed domain name is identical or confusingly similar to the trademark, trade name and main part of domain name over which the Complainant has rights:

The Complainant is famous worldwide in the video conference industry. It is a technology company headquartered in California, USA, established in 2011 and listed on the NASDAQ stock exchange in the United States.

The "zoom" brand and products are famous worldwide including in China. They are widely used and recognized among the Chinese public in activities organized by official government agencies, universities and commercial organizations. Based on its wide recognition and high brand value, it was selected as one of the top 100 global brands. "zoom" brand and video conferencing products are extensively reported and publicized by major media and platforms, such as Zhejiang TV Station, Huanqiu.com, Fenghuang.com, Sina.com and Tencent.com. It enjoys high reputation.

In 2019, a total of 4 million meetings were held on zoom video software, with 350,000 organizers; in 2020, a total of 13 million meetings were held on zoom video software, with 800,000 organizers; as of 2021, a total of 3 million meetings were held on zoom video software, and the number of organizers reached 350,000. The download volume of zoom video software APP in major app stores in China reached 35.67 million by 2021. In early 2020, as the COVID-19 pandemic worsened and many companies and schools began working remotely, the usage of zoom video software increased dramatically, growing 67% from the beginning of the year to mid-March. During the epidemic, zoom became a popular social platform. The Respondent, which is engaged in the same industry, must know the Complainant.

With the Complainant's "zoom" brand and video conferencing products famous in China and in the world, the Respondent registered the disputed domain name "zoomcna.com" which completely contain the Complainant's famous trademark, trade name and main part of domain name "zoom.us". The disputed domain name totally contains "zoom", which is the Complainant's trade name, trade mark and main part of its domain name. What is worse, the Respondent adds "cna" after "zoom" in the disputed domain name. "cn" is the abbreviation of China. "a" is just indefinite article. The disputed domain name "zoomcna.com" itself can mean "the website of Zoom in China". However, this domain and its website have nothing to do with the Complainant. The registration of the disputed domain name damages the Complainant's trademark right, trade name right and its interests over its domain name.

The website "http://www.zoomcna.com/" directed by the disputed domain name "zoomcna.com" widely uses "zoom" trademark, offers download service of zoom video meeting software. What cannot be tolerated is that the Respondent impersonates

itself as the Complainant, in the website and uses “sales@zoomcna.com” and “cn@zoomcna.com” as the contact email addresses. The registration and use of the disputed domain name are very likely to cause confusion among consumers that the services provided are originated from the Complainant or authorized by the Complainant.

(ii) The Respondent has no rights or legitimate interests in respect of the disputed domain name:

The disputed domain name was registered on 6 June, 2022, far later than the date when the Complainant used “zoom” as domain name and trade name, and far later than the date when the Complainant registered “zoom” as trademarks in China.

The Complainant never authorized the Respondent or the website operator to register or use the disputed domain name.

Just the registration itself is not enough to give the Respondent legal rights.

Regarding to the burden of proof of this condition, when the Complainant initially proves that the Respondent does not have legal rights, the Respondent should bear the corresponding burden of proof to prove that it has a legitimate interest. (Neusiedler Aktiengesellschaft v. Vinayak Kulkarni, WIPO Case No. D2000-1769).

(iii) The disputed domain name has been registered and is being used in bad faith:

The Complainant and its trademark and trade name “zoom” enjoy high reputation worldwide including in China. The Respondent engaged in the same industry and must know the Complainant, but the Respondent still registered the disputed domain name that completely include the Complainant's famous trade mark, trade name and main part of its prior domain name. This can fully demonstrate the bad faith of the Respondent in registering the domain name.

The Respondent impersonates the Complainant in the website “<http://www.zoomcna.com/contact/>” directed by the disputed domain name. It claims itself as Zoom Video Communications, Inc. which is the name of the Complainant. However, the Complainant never operates or authorizes others to operate this website. The Respondent's bad faith in free riding the interests and reputation of the Complainant is obvious.

The Complainant requests that the disputed domain name should be deregistered.

B. The Respondent

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

4. Discussions and Findings

Paragraph 4(a) of the Policy provides that in order to be entitled to a transfer of the disputed domain name, the complainant shall prove the following three elements:

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

Respondent in Default

The Policy and the Rules provides that “[i]f a Respondent does not submit a response, in the absence of exceptional circumstances, the Panel shall decide the dispute based upon the complaint.” The Panel finds that no exceptional circumstances exist. Accordingly, the Panel will decide the dispute based upon the Complaint and the evidence submitted therewith.

A. Identity or Confusing Similarity

The Complainant was registered in California, USA, established in 2011 and listed on the NASDAQ stock exchange in the United States. The Complainant is the owner of the trademarks “zoom”. The Complainant is famous worldwide in the video conference industry. The evidence submitted by the Complainants shows that the Complainant successfully registered the trademark “zoom” as early as of 2019, much earlier than the time the Respondent registered the disputed domain name.

The Complainant has registered multiple “zoom” trademarks in China, including No. 30599729 in Class 38 with the designated services on “Internet service provider [ISP] services; Provision of video conferencing services; Video conference communications; Mobile phone communications; Information transmission in the audiovisual field; Computer telephone services; Computer terminal communications; Computer aided transmission of message and images; Transmission of information via video communication system; Electronic transmission of mail and information”; No. 35999131 in Class 38 with the designated services on “Provision of video conferencing services ; Internet service provider [ISP] services; Teleconferencing services; Mobile telephone communications; Video conferencing services; Computer telephone services; Computer terminal communications; Computer aided transmission of messages and images; Transmission of information through video communication systems; Electronic transmission of mail and message”. These trademarks all enjoy a high market reputation. The registration date of the disputed domain name “zoomcna.com” was 6 June, 2022, significantly later than the application and completion of the registration of the above-mentioned trademark by the Complainant.

The disputed domain name “zoomcna.com” reproduces entirely the Complainant’s

“zoom” trademark, while adding the “cna” and “.com”, “cna” referring to “cn”, which is the abbreviation of China, “a” is just indefinite article. Although the disputed domain name does not separate “zoom” from “cna”, Internet users will generally recognize “cna” as regional abbreviation. Even if Internet users do not recognize “cn” and/or “a”, the difference between the main part of the disputed domain name “zoom” and the Complainant's trademark “zoom” is completely negligible in the case that their appearances, pronunciations and lengths are the same.

Also, the gTLD “.com” is without legal significance in the present case since the use of a TLD is technically required to operate a domain name. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“WIPO Overview 3.0”), section 1.8 “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”.

Furthermore, the mark “zoom” is inherently distinctive mark which will attract Internet users’ attention. The evidence provided by the Complainant also shows that the “zoom” mark has accumulated a considerable reputation by 2022 when the Respondent first registered the disputed domain name. Reproduction of the Complainant’s “zoom” trademark in its entirety in the disputed domain name in itself establishes that the disputed domain name is confusingly similar to the Complainant’s trademarks.

The disputed domain name “zoomcna.com” uses the Complainants’ “zoom” brand in the website. The layout, text information and other contents of these pages are highly similar to the Complainants’ website, and this fake website offers download service of zoom video meeting software, which is extremely confusing. It is easy for ordinary consumers to mistakenly believe that the disputed domain name is the official website of the Complainant or has any association with the Complainant.

The Panel notes that the Complainant has provided evidence of its registered trademarks for “zoom” in connection with video conferencing products, and that the Complainant has been using this trademark for many years.

The addition of the term “cna” to the disputed domain name does not sufficiently distinguish it from the Complainant's trademarks, especially given that the term “cn” is commonly associated with China.

Therefore, the Panel finds that the Complainants has proven the element required by the Policy, paragraph 4(a)(i), that the disputed domain name is confusingly similar to the Complainant's registered trademarks.

B. Rights or Legitimate Interests of the Respondent

Based on the Complainant's search results on the Internet, it appears that the

Respondent does not possess any rights related to the disputed domain name. The Complainant argues that the Respondent has no legal rights to use the term “zoom” and that the products/services offered on the Respondent's website under the disputed domain name are similar to the goods for which the Complainant has registered a trademark. The disputed domain name is also very similar to the Complainant's trademark “zoom”, which could lead to confusion and infringe upon the Complainant's trademark rights.

Furthermore, there is no commercial relationship between the Complainant and the Respondent, and the Respondent has not been authorized to use the Complainant's trademark or trade name.

Accordingly, the Panel finds that the Complainant has satisfied the second condition under paragraph 4(a)(ii) of the Policy.

C. Bad Faith

According to paragraph 4(b) of the Policy, the following circumstances, in particular but without limitation, shall be evidence of registration and use in bad faith:

(i) circumstances indicating that the Respondent has registered or the Respondent has acquired the domain names primarily for the purpose of selling, renting, or otherwise transferring the domain names registration to the Complainant who is the owner of the trademark or service mark or to a competitor of that Complainant, for valuable consideration in excess of the Respondent's documented out-of-pocket costs directly related to the domain names; or

(ii) the Respondent has registered the domain names in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the Respondent has engaged in a pattern of such conduct; or

(iii) the Respondent has registered the domain names primarily for the purpose of disrupting the business of a competitor; or

(iv). by using the domain names, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its 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 its website or location.

The examples of bad faith registration and use set forth in paragraph 4(b) of the Policy are not meant to be exhaustive of all circumstances from which such bad faith may be found. The overriding objective of the Policy is to curb the abusive registration of domain names in circumstances where the registrant seeks to profit from and exploit the trademark of another.

For the reasons discussed under this and the preceding heading, the Panel considers

that the Respondent's conduct in this case constitutes bad faith registration and use of the disputed domain name within the meaning of paragraphs 4(b)(iv) and 4(a)(iii) of the Policy.

The Respondent clearly was aware of the Complainant and had the Complainant's "zoom" mark in mind. The Complainant argues that the Respondent cannot ignore the fact that "zoom" is a well-recognized company and its trade and service marks are commonly known, alleging that the Respondent was aware of that mark when it registered the disputed domain name. Further, the Complainant alleges that the Respondent cannot use the registered domain name without infringing on the trademark owner's rights.

The Panel notes that according to the evidence provided, the disputed domain website offers the same products and services as the Complainant, most of which are copied and imitated from the Complainant's products.

The Panel finds it highly probable that Respondent had Complainant's mark in mind when registering the disputed domain name. Not only is "zoom" an uncommon, if not unique, but the redirection of the disputed domain name to the same products of the Complainant suffices an act of bad faith.

The Panel finds that the Complainant has established that the Respondent registered and is using the disputed domain name in bad faith pursuant to Policy paragraph 4(b)(iv).

The Complainant also relies upon other grounds, not specifically enumerated in Policy section 4(b), for contending that the Respondent has registered and is using the disputed domain name in bad faith: (i) the Respondent's use of the domain name tarnished the Complainant's "zoom" trademark; (ii) the Respondent provided false contact information; and (iii) the Respondent failed to reply to the Complainant's Complaint.

Given the Panel's determination based upon two of the grounds enumerated in Policy paragraph 4(b), it is not necessary for the Panel to determine whether these additional grounds are a basis for a finding of bad faith domain name registration and use.

5. Decision

Based on the above analysis, the Panel decides that: the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and the Respondent has no rights or legitimate interests in respect of the disputed domain name; and the disputed domain name has been registered and is being used in bad faith.

Accordingly, pursuant to paragraph 4(a) of the Policy and 15 of the Rules, the Panel

decides that the disputed domain name “zoomcna.com” should be deregistered.

A handwritten signature in Chinese characters, appearing to be 'Timothy Sze' (謝志), written in black ink on a light background.

Timothy Sze

Dated: 14 July 2023