

## ADMINISTRATIVE PANEL DECISION

Trent Limited v. Mehul Dholariya, Partnership  
Case No. D2024-0300

### 1. The Parties

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

The Respondent is Mehul Dholariya, Partnership, India.

### 2. The Domain Name and Registrar

The disputed domain name <zudioo.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 January 24, 2024. On January 24, 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 January 29, 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 February 1, 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 February 1, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 21, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 22, 2024.

The Center appointed Vinod K. Agarwal as the sole panellist in this matter on March 14, 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 a company organised and existing under the laws of India having its registered office at Mumbai, India. Further that, the Complainant is a part of Tata group of companies which also includes service companies and companies selling Tata products to franchisees in certain markets.

The Complainant was originally incorporated as Lakme Limited on December 5, 1952. The Complainant came to be known as Trent Limited in 1998 owing to company acquisition and amalgamation. Extracts from records of the Ministry of Corporate Affairs of India in support of this are enclosed as Annexure C to the Complaint. In 1998, the Complainant decided to pursue business in the field of apparel retailing, given the absence of established brands in most categories. An extract of the website of the Tata Group with reference to the Complainant's incorporation is enclosed as Annexure D to the Complaint.

The Complainant has around 460 outlets under its trademark ZUDIO covering number of cities across India which offer a range of products such as garments and fashion accessories, cosmetics, perfumes, and household accessories. For example, India Trademark Registration No. 3078072, registered on October 13, 2015. The Complainant operates various famous brands which include WESTSIDE, ZUDIO, and UTSA. The Complainant started its flagship brand WESTSIDE in 1998 through which it offers branded fashion apparel, footwear and accessories for women, men and children, along with a range of home furnishings and décor. The Complainant operates famous fashion brand ZUDIO through its 460 brick and mortar stores spread across India.

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

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

The Complainant contends that each of the three elements specified in paragraph 4(a) of the Policy are applicable to the present dispute.

In relation to element (i), the Complainant contends that the words "ZUDIO" is the registered trademarks of the Complainant and that the Complainant has been continuously using the trademark ZUDIO since 2015. The said trademark of the Complainant is registered in various jurisdictions for a very long time. Copies of the registration certificates of the trademarks are attached with the Complaint as Annexure E. The trademarks are of the Complainant registered in Classes 24, 25, and 35. The registrations are currently valid and subsisting.

The Complainant has contended that by virtue of prior adoption, long and continuous use and extensive publicity and promotion, the trade name and trademark ZUDIO has acquired tremendous goodwill and enviable reputation worldwide amongst the consumers and public in general. Thus, they are associated by the business houses and public exclusively with the Complainant and their businesses, services, and products.

The trademark ZUDIO has not been used by anyone other than the Complainant or its authorized licensee or franchisee holders. The disputed domain name wholly comprises the Complainant's well-known trademark ZUDIO and is therefore confusingly similar to the Complainant's trademark. The adoption of a well-known trademark with any term, whether descriptive or not, would lead the consumers to believe that the disputed domain name belongs to or is associated with the Complainant owing to the widespread use, goodwill and reputation of the trademark.

The Complainant also operates a website through the domain name <zudio.com> through which it provides the details of products its offers under its trademark ZUDIO. Copies of a few webpages from "www.zudio.com" are annexed with this Complaint as Annexure F. 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 Whois details of both these domain names are enclosed as Annexure G to the Complaint.

The Respondent has created an active website through which it is selling ready-made clothes under the infringing mark "zudio". Further that, the Respondent is offering identical goods/services to that of the Complainant's trademark ZUDIO, namely retail of ready-made clothes.

Therefore, the Complainant contends that the aforesaid facts establish that the disputed domain name is identical or confusingly similar to the trademark in which the Complainant has rights and has satisfied paragraph 4(a)(i) of the Policy.

In relation to element (ii), the Complainant contends that the Respondent has no "rights or legitimate interests" in the disputed domain name because the Complainant has not authorized, permitted, or granted any license to the Respondent to use the disputed domain name. Such unlicensed and unauthorized use of the disputed domain name incorporating the Complainant's trademark ZUDIO is solely with a view to hoard the disputed domain name, misleadingly divert consumers and to tarnish the trademark of the Complainant.

The Respondent has no authority to misuse the registered trademark of the Complainant, namely, ZUDIO. The Respondent has not been given the authority to act or speak on behalf of the Complainant. The Respondent has not been known by the disputed domain name. The Respondent is not making a legitimate noncommercial or fair use of the disputed domain name without intent for commercial gain, but misleadingly to divert consumers or to tarnish the trademark or service mark of the Complainant.

The Complainant has stated that the Respondent is not a licensee or franchisee of the Complainant and has adopted the identical ZUDIO trademark with a view to ride upon the goodwill associated with the Complainant's well-known trademark ZUDIO.

In relation to element (iii), the Complainant has stated that the Respondent registered the disputed domain name primarily for the purpose of disrupting the business of the Complainant. Further that the Respondent has booked the disputed domain name with the ill intention just to harm the goodwill of the Complainant and to confuse the public at large. The Respondent may use the disputed domain name to attempt to attract Internet users for personal gain by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website.

The disputed domain name containing the trademark ZUDIO confuses the public as to the source of the information included on the Respondent's website. That the Respondent has registered the disputed domain name for the purpose of disrupting the business of the Complainant. Further that, the Respondent is using the disputed domain name in bad faith, and the Respondent's use of the disputed domain name creates confusion as to the source of the information found on the website under the disputed domain name.

The Complainant has also sent a legal notice to the Respondent on September 25, 2023 for trademark infringement. However, the Respondent neither complied nor responded to the said legal notice. A copy of the Complainant's legal notice is annexed to the Complaint as Annexure K.

Therefore, the registration and use of the disputed domain name by the Respondent was in bad faith and the requirement of paragraph 4(a)(iii), 4(b) of the Policy read along with the Rules, paragraph 3(b)(ix)(3) has been established.

In support of its contentions, the Complainant has relied on a number of cases filed before the Center and other institutions involving the trademark ZUDIO and which have been decided in their favour. The said cases have been duly taken into consideration.

## **B. Respondent**

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

## 6. Discussion and Findings

According to paragraph 4(a) of the Policy, the Complainant must 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

The words "ZUDIO" is the registered trademark of the Complainant and the Complainant has been continuously using the trademark ZUDIO since 2015. The disputed domain name includes the trademark ZUDIO of the Complainant and is very much similar to other domain names and the trademarks of the Complainant. The addition of only one letter "o" will not make the disputed domain name any different.

The Panel finds that the mark is recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the trademark of the Complainant.

### B. Rights or Legitimate Interests

According to paragraph 4(c) of the Policy, the Respondent may demonstrate its rights to or legitimate interests in the disputed domain name by proving any of the following circumstances:

- i) before any notice to the Respondent of the dispute, the Respondent's use of, or demonstrable preparations to use, the disputed domain name or a name corresponding to the disputed domain name in connection with a bona fide offering of goods or services; or
- (ii) the Respondent (as an individual, business or other organization) has been commonly known by the disputed domain name, even if the Respondent has acquired no trademark or service mark rights; or
- (iii) the Respondent is making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

There is no evidence to suggest that the Respondent has become known by the disputed domain name anywhere in the world. The Complainant has not authorized the Respondent to use the name and their trademark.

It is evident that the Respondent can have no rights or legitimate interests in the disputed domain name. Further, in view of the fact that the Complainant has not licensed or otherwise permitted the Respondent to use its trademark or to apply for or use the disputed domain name incorporating the trademark of the Complainant and that nobody would use the word ZUDIO unless seeking to create an impression of an association with the Complainant.

Having reviewed the available record, the Panel finds that 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.

Based on the evidence in the Complaint, the Panel finds that the above circumstances do not exist in this case and that the Respondent has no rights or legitimate interests in the disputed domain name.

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

Paragraph 4(b) of the Policy states that any of the following circumstances, in particular but without limitation, shall be considered evidence of the registration or use of the domain name in bad faith:

- (i) Circumstances indicating that the Respondent has registered or acquired the disputed domain name primarily for the purpose of selling, renting, or otherwise transferring the disputed domain name 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 documented out-of-pocket costs directly related to the domain name; or
- (ii) The Respondent has registered the disputed domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that it has engaged in a pattern of such conduct; or
- (iii) The Respondent has registered the disputed domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) By using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other on-line 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 disputed domain name was registered on July 5, 2023, which is several years after the Complainant secured its rights in the registered trademark ZUDIO.

The Complainant contends that the disputed domain name was registered or acquired by the Respondent primarily for the purpose of carrying on some of the business competitive to the Complainant. The disputed domain name is being used with the intent to deceive the members of the public deliberately and intentionally, with a view to trade upon or encash on the name, fame, reputation, image, and goodwill acquired by the Complainant.

The fame and unique qualities of the trademark ZUDIO, which was adopted and applied for by the Complainant well prior to the registration of the disputed domain name, make it extremely unlikely that the Respondent created the disputed domain name independently without any knowledge of the Complainant's trademark.

This and the other evidence submitted by the Complainant leads to the presumption that the disputed domain name was registered and used by the Respondent in bad faith.

Therefore, the Panel concludes that the registration of the disputed domain name amounts to the registration and use of the disputed domain name in bad faith under paragraph 4(b) 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 <zudioo.com> be transferred to the Complainant.

*/Vinod K. Agarwal/*

**Vinod K. Agarwal**

Sole Panelist

Date: March 28, 2024