

ASIAN DOMAIN NAME DISPUTE RESOLUTION CENTRE

(Beijing Office)

ADMINISTRATIVE PANEL DECISION

Case No. CN-1200599

Complainant: Zippo Manufacturing Company

Respondent: yan shan

Domain Name: zipporen.com

Registrar: GODADDY.COM, LLC

1. Procedural History

On 31 July 2012, the Complainant submitted a Complaint in English to the Beijing Office of the Asian Domain Name Dispute Resolution Center (the ADNDRC) 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) approved by the Internet Corporation for Assigned Names and Numbers (ICANN), the Rules for Uniform Domain Name Dispute Resolution Policy (the Rules), and the ADNDRC Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the ADNDRC Supplemental Rules). On the same date, the ADNDRC sent to the Complainant by email an acknowledgement of the receipt of the Complaint and reviewed the format of the Complaint for compliance with the Policy, the Rules and the ADNDRC Supplemental Rules.

On 1 August 2012, the ADNDRC transmitted by email to ICANN and the Registrar a request for registrar verification in connection with the disputed domain name. On 7 August 2012, the Registrar transmitted by email to the ADNDRC its verification response, confirming that the Respondent is listed as the registrant and providing the contact details.

On 11 September 2012, the ADNDRC notified the Complainant that the Complaint has been confirmed and transmitted to the Respondent and

the case officially commenced on 11 September 2012. On the same day, the ADNDRC transmitted the Written Notice of the Complaint to the Respondent, which informed that the Complainant had filed a Complaint against the respondent over the disputed domain name and the ADNDRC had sent to the Respondent the Complaint and its attachments through email according to the Rules and the Supplemental Rules. On the same day, the ADNDRC notified ICANN and registrar of the commencement of the proceedings.

The Respondent failed to submit a Response within the specified time period. The ADNDRC 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 informed the Complainant and the Respondent that the ADNDRC 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 Mr. Gao Lulin, ADNDRC Beijing Office informed the parties that Mr. Gao Lulin would be the sole Panelist for this case and formally transferred the files of this case to Mr. Gao Lulin on October 17, 2012.

The Panelist received the file, on October 17, 2012, from the ADNDRC Beijing Office and should render the Decision on or before October 31, 2012.

2. Factual Background

For the Complainant

The Complainant of this case is Zippo Manufacturing Company. Its address is at 33 Barbour Street, Bradford, PA 16701. Its authorized representative is FENG Chao.

For the Respondent

The Respondent of this case is yan shan with the address at Beijing Chaoyang 100024. The Respondent registered the disputed domain name “zipporen.com” on February 14, 2011.

3. Parties’ Contentions

The Complainant

The Complainant’s contentions are as follows:

I . The introduction of the Complainant and its trademarks
Part I: the Complainant enjoys the exclusive trademark right of “ZIPPO”
The Complainant, ZIPPO Manufacturing Company (hereafter as ZMC) was established in 1932, is the world’s largest manufacturer of lighters and one of the most fascinating firms anywhere. As a world famous manufacturer, ZMC always be happy to restore any old Zippo Windproof lighter to flaming youth within 3 working days at absolutely no cost. The “forever” guarantee is one reason why privately held Zippo, which sells “millions” of lighters a year ranging from brushed chrome to solid gold. Besides, “ZIPPO” is distinctive part of the company name of ZMC, as a globally prestigious enterprise, ZMC attaches significant importance to all its intellectual property rights and has been approved for registration of the marks in more than 128 countries and regions, including but not limited to America, Canada, Australia, Japan, Korea and China. The aforementioned registration has covered the classification of goods and service including but not limited to 3, 4, 6, 7, 8, 9, 11, 12, 14, 16, 18, 20, 21, 22, 25, 26, 28, 34, etc. Please refer to the following table for the registration information:

Trademark	Date for Registration	Registration No.	Class	Designated goods or services	Expiration date
ZIPPO	June 7, 1997	1020590	3	Perfume	June 6, 2017
ZIPPO	October 30, 1985	235541	4	Liquefied gas for lighter	October 29, 2015

ZIPPO	March 14, 1995	734770	6	Key holder	March 13, 2015
ZIPPO	April 7, 1995	738473	8	Knife [hand tools]	April 6, 2015
ZIPPO	August 21, 1996	864807	9	Steel Ruler	August 20, 2016
ZIPPO	May 14, 2007	4335420	9	Eyeglasses, camera	May 13, 2017
ZIPPO	May 14, 2007	4335432	9	Eyeglasses, camera	May 13, 2017
ZIPPO	March 14, 1995	734632	11	Lights, Pocket torches, Torches for lighting	March 13, 2015
ZIPPO	May 14, 2007	4335419	11	Stoves, Torches for lighting	May 13, 2017
ZIPPO	May 14, 2007	4335418	12	Vehicles for locomotion by land, air, water or rail	May 13, 2017
ZIPPO	May 14, 2007	4335430	12	Vehicles for locomotion by land, air, water or rail	May 13, 2017
ZIPPO	April 14, 1995	740216	14	watch	April 13, 2015
ZIPPO	April 20, 1989	346209	16	Writing instruments	April 19, 2019
ZIPPO	April 7, 1995	738926	18	Leather bag, Leather belt (clothing), leather wallet	April 6, 2015
ZIPPO	April 14, 1995	740370	25	T-shirt, sport shirt	April 13, 2015
ZIPPO	July 7, 2003	3093967	25	Shoes, sports shoes	July 6, 2013
ZIPPO	September 21, 1996	873325	26	Belt clasps, fastenings for braces	September 20, 2016
ZIPPO	April 30, 1989	347274	34	Lighter, firestones	April 29, 2019
ZIPPO	March 14, 2003	3091639	34	Lighters for smokers	March 13, 2013

Currently, the aforementioned trademarks are remaining in force.

Part II: The Complainant enjoys company name rights for “ZIPPO”

“ZIPPO” is the distinctive part of ZMC’s company name; the Complainant enjoys company name rights for “ZIPPO”.

Part III: The Complainant possesses many domain names based on “ZIPPO” characters

The Complainant has registered a series domain names containing “ZIPPO” characters in China and the world, such as zippo.cn, zippo.com, zippo.biz, zippo.asia, etc.

Part IV: the series of “ZIPPO” trademark has earned a great reputation in China and abroad

The Complainant ZMC should be dated back to 1932 when its founder Mr. George G Blaisdell founded it in Bradford, PA. The first Zippos was produced in early 1933. It got its name because Blaisdell liked the sound of the word “zipper” and “zippo” sounded more modern. On March 3, 1936, patent was granted for Zippos.

Zippos is unique in U.S. industry and a hero in World War II by blocking the bullet and saving a soldier’s life. Besides, Zippos is also an active “actor” and have been perfectly shown in more than 1000 Hollywood movies, including the movie “FORM HERE TO ETERNITY” which earned the best movie of Oscar Award in 1953, the film “Lethal Weapon” which starred by Mel Gibson in 1992, “The JURASSIC PARK” in 1993, “Apollo” in 1995, “The Independence Day” in 1996, “Face Off” in 1997, and Charlie’s Angels. In 1999, Zippos has been named as symbol of America by Times Magazine.

ZMC developed into a successful business enterprise by designing a lighter that lives up to a simple slogan “It works”. In 1962, ZMC diversified its output by bringing out a six-foot flexible steel pocket rule. Since then

they have added pocket knives, money-clip knives, golf balls, key holders, wood desk items, and writing instruments. Like the lighters, all Zippo products pledge: "If for any reason, your Zippo will not work, regardless of age or condition -we'll fix it free". Even the golf ball is guaranteed playable for 180 holes.

Due to the popularity among the consumers, the wartime production of Zippos has peaked in 1945 when 3 million Zippos were made. In 1969, the output of Zippos has achieved to one hundred millions. In 1980s, the marketing networks for ZIPPO products have been spread across the world. In 2003, ZMC produced the 400 millionth lighter in its 71-year history. The milestone lighter has been on permanent display in the company's museum in the Zippo/Case Visitors Center.

ZMC has been playing an active role in Chinese market and increasingly become the leading brand among the lighter manufacturers. Based on the statistics, from 2000 to 2002, the sales volume of Zippos in China has occupied four-fifths of ZMC's total exports. To build a more prestigious brand and enhance the popularity, ZMC poured great investment into advertising through different media in China. Here below is the advertising expense statistics from 2000 to 2002:

Fiscal year	Advertising expense (USD)
2000	0.3 million
2001	0.36 million
2002	0.38 million

In 2009, exclude other Chinese branches, the advertising expense by Zippo (Hong Kong and China) Co. has exceeded 0.3 million dollars.

The Complainant propagate its brand through different media, mainly includes:

(1)Advertisements published in website, magazine and newspaper, etc. The Complainant has published many introduction articles and

advertisement on famous magazines, website, etc. Through the propagation, ZIPPO became well known among the relevant public.

(2) From 2003, in order to adapt to competition and further open up the market, ZMC began to organize the ZIPPO Hot Tour, much music fan and the fans for ZIPPO get together to communicate via music and exchange their key ideas. The flame of the tour ignited the Zippo fans and the said tours were successful holding across China for recent years. In 2012, ZMC has participated MIDI Musical Festival in Beijing and Shanghai that sponsored by Beijing Midi School of Music.

Based on unceasing efforts, the Complainant established a perfect marketing network and opened more branches in different cities.

ZIPPO brand has acquired high popularity in China. Entered ZIPPO as the key word in GOOGLE as well as BAIDU, we will get hundreds of thousands links displaying the ZIPPO product, ZMC's introduction, propagation and the comments made by the consumers to ZIPPO product.

After continuous use and propagation, ZIPPO brand earned a great reputation all over the world and should be granted more extensive protection.

II . The factual and legal grounds on which the Complaint is made

Part I: the disputed domain name "zipporen.com" contains the word "zippo" which is identical with Complainant's registered trademark

The disputed domain name "zipporen.com" contains the word "zippo" which is identical with Complainant's registered trademark. Furthermore, "ren" is the Chinese Pinyin for the word "people", it is a generic term which didn't acquire significance. Thus, the disputed domain name was distinguished by the word "zippo" that shall easily mislead the consumers in misunderstanding the website had some commercial connections with

ZMC.

Part II: the Respondent has no rights or legitimate interests in respect of the domain name “zipporen.com”

(1)The Respondent is not the trademark owner of “Zippo”;

(2)The Complainant has never authorized the Respondent to use the aforementioned trademark and never transferred the said trademark to the Respondent. In addition, the Respondent has never acquired authorization from other legitimate channel in using the “Zippo” trademark;

(3)Based on further investigation, the Respondent was not the employee or agent of ZMC who has been authorized to complete the registration of the disputed domain name.

Therefore, the Respondent has no rights or legitimate interests in respect of the domain name “zipporen.com”.

Part III: the disputed domain name has been registered and is being used in bad faith

According to (ii), (iii) and (iv) 4B of the Policy: Evidence of Registration and Use in Bad Faith, the Respondent registered and used the disputed domain name in bad faith, the reasoning is briefed as below:

(1)For the purposes of Paragraph 4(a)(iii), the following circumstances, in particular but without limitation, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith:(ii) you have registered the 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 you have engaged in a pattern of such conduct;

The registered trademark “Zippo” has become world famous through

continuous use, registration and propagation, you can find ZIPPO product in most countries. In addition, Zippo is the distinctive part of ZMC's company name. The Respondent registered the disputed domain name and made Zippo as the distinctive part of the domain name under the awareness of ZMC is the registrant of ZIPPO trademark, the Respondent has intentionally prevented ZMC, who is the owner of the trademark from reflecting the mark in a corresponding domain name.

(2) (iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor;

The Respondent registered the disputed domain name and distributed Zippos and accessory product through this domain name. The registrant has no business relations with ZMC. It is obvious that he has registered the disputed domain name to seek the improper benefits and has did it on purpose to impede the Complainant to exercise its trademark rights in the domain names that absolutely disrupted the business of ZMC.

(3) (iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, internet users to your web site 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 your web site or location or of a product or service on your web site or location.

The Complainant considered the Respondent has no rights or legitimate interests in respect of the distinctive part of the disputed domain name ZIPPO, the Respondent has registered the disputed domain name to seek the improper benefits and made confusion among the relevant consumers. For the relevant public, the distinctive part of the disputed domain name will easily lead them in misunderstanding the origin of the products or confuse the consumer that the Respondent had some commercial connections with ZMC.

All the above facts would verify the Respondent has registered the

disputed domain name with the purpose to distribute and propagate his counterfeit product, the registration and the use is absolutely in bad faith which has been set forth in the(ii), (iii) and (iv) 4B of the Policy: or (ii) you have registered the 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 you have engaged in a pattern of such conduct; (iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or (iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your web site 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 your web site or location or of a product or service on your web site or location.

Based on all the preceding grounds, the Complainant requests that the disputed domain name "zipcoren.com" shall be transferred to the Complainant.

The Respondent

The Respondent did not make any response by the scheduled time.

4. Panelist's Findings

As stipulated in the Paragraph 4(a) of the Policy, when claiming a domain name registered by the Respondent, the Complainant must prove each of the followings:

- (i) that the domain name of the Respondent is identical or confusingly similar to a trademark or service mark in which the Complainant has rights to; and
- (ii) that the Respondent has no rights to 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.

Based on the relevant stipulations under the Policy, the Rules, and ADNDRC Supplemental Rules, the Panelist must determine whether the Complainant satisfies each of the elements under the Policy. If satisfied, the Panelist will make a final decision in accordance with the facts and relevant stipulations under the Policy, the Rules, and the ADNDRC Supplemental Rules; If not satisfied, the Complainant's claims shall be rejected.

Identity or Confusing Similarity

Pursuant to Paragraph 4(a)(i) of the Policy, the Complainant must prove that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights to. The Panelist noted that the Complainant mainly proves the rights on the trademark "ZIPPO" by claiming the disputed domain name is identical or confusingly similar to its trademarks. Therefore, the Panelist must, first, analyze and determine whether the Complainant owns prior trademark rights.

According to the registration certificate, renewal certificate, name modification certificate, and information printout of the Complainant's trademarks in China provided by the Complainant, the Complainant has registered "ZIPPO" trademarks covering the classification of goods including Class 3, 4, 6, 8, 9, 11, 12, 14, 16, 18, 25, 26, 34, etc. For example, as early as October 30, 1985, the Complainant has registered "ZIPPO" trademark on designed goods "Liquefied gas for lighter, etc." in Class 4 (Reg. No.: 235541); on April 30, 1989, the Complainant registered "ZIPPO" trademark on designed goods "Lighter, Firestones, etc." in Class 34 (Reg. No.: 347274); on March 14, 1995, the Complainant registered "ZIPPO" trademark on designed goods "Lights, Pocket torches, Torches for lighting, etc." in Class 11 (Reg. No.: 734632).

These trademarks are valid and the registration dates are much earlier than the registration date of the disputed domain name, February 14,

2011. Thus, the Panelist is of the view that the Complainant enjoys prior trademark rights.

The Panelist needs to determine whether the identity is confusingly similar between the Complainant's registered trademarks and the disputed domain name.

The identifying part, "zipporen," of the disputed domain name consists of "zippo" and "ren." The Panelist concludes that the domain name consists of the Complainant's trademark "ZIPPO," with the addition of a generic term "ren," which is the Chinese pinyin of "people" in Chinese. Like many UDRP cases, the addition of a generic term does not necessarily distinguish a domain name from a trademark. In addition, the generic term may very well increase confusing similarity between the disputed domain name and the Complainant's trademark "ZIPPO."

Therefore, the Panelist finds that the disputed domain name is confusingly similar to the Complainant's trademarks; and the Complainant has satisfied the first condition under Paragraph 4(a) of the Policy.

Rights or Legitimate Interests of the Respondent

The Complainant argues that the Respondent has no rights or legitimate interests in respect to "ZIPPO" trademark. The Complainant has never authorized or licensed the Respondent to use "ZIPPO" trademark, and has never transferred the said trademark to the Respondent. The Respondent has never acquired authorization from other legitimate channel that uses the "Zippo" trademark. In addition, the Respondent was not an employee or agent of the Complainant who has been authorized to register the disputed domain name. Therefore, the Complainant holds the view that the Respondent has no rights or legitimate interests in respect to the disputed domain name.

The Respondent did not make any response within the scheduled time, nor did it make any explanation or provide any evidence to prove its

trademark rights, legitimate interests, or any other legal rights to the disputed domain name.

Accordingly, the Panelist concludes that the Complainant has provided preliminary evidence required by Paragraph 4(a)(ii) of the Policy and the burden of proof is transferred to the Respondent, who must overcome the burden of proof by showing its rights or legitimate interests of the disputed domain name. However, the Respondent failed to respond to the Panelist and failed to submit any evidence in support of its contention. Hence, the Panelist cannot come to a conclusion that the Respondent has rights or legitimate interests in respect of the disputed domain name based on the evidence in hand.

Accordingly, the Panelist finds the Complainant has satisfied the second condition under Paragraph 4(a) of the Policy.

Bad Faith

The Complainant also needs to establish the Respondent's bad faith under Paragraph 4(a)(iii) of the Policy, where the circumstances in particular shall be considered as evidence of the registration and use of a domain name in bad faith:

- (i) Circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the 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 your documented out-of-pocket costs directly related to the domain name; or
- (ii) You have registered the 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 you have engaged in a pattern of such conduct; or
- (iii) You have registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) By using the domain name, you have intentionally attempted to attract, for commercial gain, internet users to your web site 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 your web site or location or of a product or service on your web site or location.

First, bad faith can be found when the Respondent was aware of the Complainant's trademark at the time of registering the disputed domain name. The Complainant has described and proved that the trademark, "ZIPPO," has acquired high fame in China and abroad. The Complainant and "ZIPPO" mark have established a close relationship. The Panelist views that it is highly unlikely that the Respondent was unaware of the mark, "ZIPPO," when registering the disputed domain name.

Second, it is a strong indication of bad faith when registration of a trademark with high fame by a party without connection to the owner of the trademark, without authorization, and without apparent legitimate purpose to use the famous trademark. The Panelist is of the view that, the Respondent registered the disputed domain name that is identical to the trademarks of the Complainant with high fame under the circumstance that it had no legitimate interests over the disputed domain name.

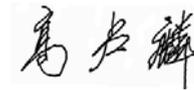
Third, as demonstrated by Appendix 11 of the evidence submitted by the Complainant, the Respondent has used the disputed domain name to set up a website www.zipporen.com titled with "ZIPPO and People in Chinese," where numerous lighters, labeled with "zippo," are sold and distributed. The conduct of the Respondent is likely to confuse the relevant consumers that there is a commercial affiliation between the Respondent and the Complainant. Therefore, the Panelist believes the Respondent has violated Paragraph 4(b)(iv) of the Policy, where by using the domain name, the Respondent has intentionally attempted to attract, for commercial gain, internet users to its web site 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 your web site or location or of a product or service on your web site or location.

To conclude, the Panelist holds that the Complainant has satisfied the third condition under Paragraph 4(a) of the policy and the Respondent registered and used the disputed domain name in bad faith.

5. Decision

According to the analysts of the Panelist, the Complainant has satisfied the three elements of Paragraph 4(a) of the Policy. The Panelist supports the Complainant's request that the disputed domain name "zipporen.com" shall be transferred to the Complainant, Zippo Manufacturing Company.

Panelist:



Dated: October 30, 2012