



(Hong Kong Office)

ADMINISTRATIVE PANEL DECISION

Case No.	HK-2401882
Complainant:	Zoomlion Heavy Industry Science and Technology Co., Ltd.
Respondent:	OOO “AmurTekhImport”
Disputed Domain Name(s):	<www.zoomlion.tech>

1. The Parties and Contested Domain Name

The Complainant is **Zoomlion Heavy Industry Science and Technology Co., Ltd.**, of 361 YinPen Road (South), Changsha, Hunan Province, China.

The Respondent is **OOO “AmurTekhImport”**, of ul. Frunze d. 48 ofis 3, Blagoveschensk, 675000, Russian Federation.

The domain name at issue is **www.zoomlion.tech** (“*Disputed Domain Name*”), registered by Respondent with Regional Network Information Centre, JSC dba RU-CENTER, of 1 Bolshov Gnezdnikovsky Lane, building 2, Moscow.

2. Procedural History

On 19 March 2024, the Complainant filed a Complaint in this matter with the Hong Kong Office of the Asian Domain Name Dispute Resolution Centre (“ADNDRC-HK”). On 20 March 2024, the ADNDRC-HK notified Regional Network Information Centre (“Registrar”) of the Disputed Domain Name of the proceedings by email and requested registrar verification in connection with the domain name at issue. On 20 March 2024, the Registrar acknowledged the email of ADNDRC-HK confirming that the Disputed Domain Name is registered with the Registrar, that OOO “AmurTekhImport” is the holder of the Disputed Domain Name and provided contact details. The Center verified that the Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “policy”), the Rules of Procedure under the Policy (the “Rules”), and the Center’s Supplemental Rules.

In accordance with the Rules, the ADNDRC-HK sent a Written Notice of Complaint (“Notification”), together with the Complaint, to the email address of the Respondent’s nominated registrant contact for the Disputed Domain Name (as recorded in the WHOIS database) on 28 March 2024. The Notification gave the respondent twenty (20) calendar days to file a Response (i.e. on or 17 April 2024).

The Panel comprising of Dr. Shahla Ali as a single panelist was appointed by the ADRDRC-HK on 18 May 2024. The papers pertaining to the case were delivered to the Panel by email on the same day. The Panel finds that it was properly constituted and has acted impartially in reaching its conclusion.

3. Factual background

For the Complainant

According to information provided by the Complainant, ZOOMLION was founded in 1992 and primarily engages in the research, development, and manufacturing of high-tech equipment such as engineering machinery and agriculture machinery, as well as new types of construction materials. Its products encompass 18 major categories, 105 product series, and 636 models.

For the Respondent

The Respondent did not respond to the ADNDRC-HK within the stipulated timeframe (i.e. on or before 17 April 2024). As such the Respondent has not contested the allegations of the Complaint and is in default.

4. Parties' Contentions

A. Complainant

The Complainant's contentions may be summarized as follows:

- i. The domain name in dispute is confusingly similar to the Complainant's trademark "ZOOMLION".
- ii. Respondent has no rights or legitimate interests in the registration of the domain names in dispute.
- iii. Respondent has registered and used the domain name in bad faith.

B. Respondent

The Respondent registered the disputed domain name on 20 October 2020. It did not file a Response to the ADNDRC-HK within the required timeframe stipulated by the ADNDRC-HK (ie. on or before 17 April 2024) and as such has not contested the allegations of the Complaint and is in default.

5. Preliminary Issues: Language of Proceedings

The Panel notes that Claimant initially submitted its Claim in English and the Annexures remain primarily in English. While the Panel observes that the language of the registration agreement is Russian, in accordance with the Rules of UDRP, the Panel has the authority to determine otherwise, having regard to the circumstances of the proceedings. Having reviewed the Complainant's submission and the language of the relevant Annexures and documentary evidence, and considering the Respondent's familiarity with the English language given the fact that the Respondent uses the English word "Import" in its name: OOO "AmurTekhImport" and the English words "lion" and "tech" in the Disputed Domain

Name, for reasons of efficiency, the Panel determines that the language of the proceedings will be English.

5. Findings

Having considered all the documentary evidence before me, and the Respondent's non-participation in these proceedings after being afforded every opportunity to do so in accordance with Paragraph 14 of the Rules for Uniform Domain Name Dispute Resolution Policy ("the Rules") the Panel is of the view that it should proceed to decide on the Disputed Domain Name ("zoomlion.tech") based upon the Complaint and evidence submitted by the Complainant.

The ICANN Uniform Domain Name Dispute Resolution Policy provides, at Paragraph 4(a), that each of three findings must be made in order for a Complainant to prevail:

- i. Respondent's domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- ii. Respondent has no rights or legitimate interests in respect of the domain name; and
- iii. Respondent's domain name has been registered and is being used in bad faith.

A) Identical / Confusingly Similar

Paragraph 4(a)(i) of the Policy requires the Complainant to prove that the Disputed Domain Name is identical or confusingly similar to a trademark or a service mark in which the Complainant has rights.

The Disputed Domain Name incorporates the Complainant's "ZOOMLION" trademark in its entirety. The only difference between the Disputed Domain Name and the Complainant's "ZOOMLION" trade mark is the inclusion of the Top-level Domain ".tech" which is not sufficient to distinguish the Disputed Domain Name from the Complainant's prior rights.

"ZOOMLION" is the distinctive and prominent component of the Disputed Domain Name and the addition of the Top-level Domain ".tech" does not substantively distinguish it from the ZOOMLION trademarks. The addition of ".tech" adds further confusion by providing the appearance that the website is a technical website associated with the Complainant, which it is not.

It is the view of this Panel that the Complainant has discharged its burden of proof in establishing the element of an identical and confusingly similar mark under Paragraph 4(a)(i) of the Policy.

B) Rights and Legitimate Interests

Complainant must first make a *prima facie* case that Respondent lacks rights and legitimate interests in the disputed domain name under Policy 4(a)(ii), and then the burden shifts to Respondent to show it does have rights or legitimate interests. See *Hanna-Barbera Prods., Inc. v. Entm't Commentaries*, FA 741828 (Nat. Arb. Forum Aug. 18, 2006).

The Complainant contends that the Respondent has never been authorized by the Complainant to use the trademarks ZOOMLION, under any circumstances. Furthermore, the Respondent has no business relationship with the Complainant.

Second, the Respondent's name, OOO "AmurTekhImport", address or any other identifying information cannot be linked with the ZOOMLION mark.

Third, according to the Complainant's search, no rights for ZOOMLION can be found in the Respondents name.

It is noted that according to the WHOIS search result, the Disputed Domain Name was registered on 20 October 2020, over 18 years after the Complainant registered the trademarks ZOOMLION in China and Russia in 2002 and 2007 respectively.

Given the general recognition of the Complainant and the ZOOMLION trademarks, globally including in the PRC and Russia where the Respondent resides, the Respondent must have known of the existence of the ZOOMLION trademarks when registering the Disputed Domain Name.

Given the above reasons alongside a lack of response by the Respondent on its right and/or interest in the Disputed Domain Name, this Panel concludes that the Respondent has no rights and/or legitimate interests in respect of the Disputed Domain Name.

C) Bad Faith

Paragraph 4(b) of the Policy sets down four (4) factors which the Panel will need to examine to determine whether the Respondent has registered or used the Disputed Domain Name in bad faith. The four (4) factors are as follows:

“Evidence of Registration and Use in Bad Faith. 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:

(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.”

The Respondent, domiciled in Russia, must have been aware of the Complainant's prior rights and interest in the Disputed Domain Name given the Complainant's reputation in the mark “ZOOMLION” internationally as of the date that the Respondent registered that Disputed Domain Name.

According to the Claimant, the fact that the Disputed website features the same project operated by the Claimant indicates the Respondent's prior familiarity with the Claimant's business name and trademark when registering the Disputed Domain Name. Further, the use of the ZOOMLION name on the site makes it clear that the Respondent knew of the Complainant's trademark and registered the Disputed Domain Name in an attempt to attract internet traffic to the website on the mistaken belief that it was associated with the Complainant's business, in order to attract, for commercial gain, internet users.

No evidence has been provided showing that the Respondent sought the permission of the Claimant to use its mark, nor any evidence showing that the Claimant gave such permission to the respondent.

Given the above findings, the Panel is of the view that the Respondent registered and used the contested domain name in bad faith.

6. Decision

The Complainant has proved its case. It has a registered trademark in the name “ZOOMLION” to which the contested domain name is confusingly similar.

The Respondent has provided no evidence showing rights or legitimate interest in the Disputed Domain Name.

The Complainant has shown that the Respondent registered and used the Disputed Domain Name in bad faith.

For the foregoing reasons and in accordance with Paragraph 4 of the Policy, the Panel concludes that the relief requested by the Complainant be granted and orders that the Disputed Domain Name “**zoomlion.tech**” be transferred to the Complainant **Zoomlion Heavy Industry Science and Technology Co., Ltd.**



Dr. Shahla Ali
Panelist

Dated: 23 April 2024