

Decision for dispute CAC-UDRP-107034

Case number **CAC-UDRP-107034**

Time of filing **2024-11-07 09:35:39**

Domain names **zohosys.com**

Case administrator

Name **Olga Dvořáková (Case admin)**

Complainant

Organization **Zoho Corporation Private Limited**

Complainant representative

Organization **Abion GmbH**

Respondent

Organization **Gaurav Kumar, Apagen**

OTHER LEGAL PROCEEDINGS

The Panel is unaware of any other pending or decided legal proceedings concerning the domain name <zohosys.com> ('the disputed domain name').

IDENTIFICATION OF RIGHTS

The Complainant, Zoho Corporation Private Limited, asserts rights to the following registered trade marks, among others:

- International trade mark registration no. 929558, registered on 19 June 2007, for the mark ZOHO, in class 42 of the Nice Classification;
- Indian trade mark registration no. 5088211, registered on 14 August 2021, for the mark ZOHO, in class 9 of the Nice Classification; and
- Indian trade mark registration no. 5931493, registered on 10 May 2023, for the mark ZOHO, in class 42 of the Nice Classification.

These trade marks shall collectively be referred to as 'the Complainant's trade mark'. The Complainant maintains a robust online presence via <zoho.com>, established in 2004, and various social media platforms.

The disputed domain name <zohosys.com> was registered on 4 September 2024 and does not currently resolve to an active website.

FACTUAL BACKGROUND

A. Complainant's Factual Allegations

The Complainant, established in India, is recognised as a global provider of business software, founded in 1996 as AdventNet Inc. and rebranded in 2009 as Zoho Corporation Private Limited. The Complainant offers a comprehensive range of software solutions for business operations, including finance, marketing, HR, and project management.

Key milestones include the launch of 'Zoho Virtual Office' in 2004, 'Zoho Writer' in 2005, and the achievement of 100 million users in 2023. The Complainant operates globally, employing over 15,000 staff across multiple locations.

B. Respondent's Factual Allegations

The Respondent has failed to submit a Respondent in this UDRP administrative proceeding, leaving the Complainant's allegations uncontested.

PARTIES CONTENTIONS

A. Complainant's Submissions

The Complainant's contentions are as follows:

A.1 The disputed domain name is confusingly similar to a trade mark in which the Complainant has rights

The disputed domain name <zohosys.com> incorporates the entirety of the Complainant's well-known trade mark ZOHO, alongside the descriptive term 'sys', suggesting 'system'. The inclusion of 'sys' does not diminish the confusing similarity to the trade mark ZOHO. Furthermore, the generic Top-Level Domain ('the TLD') <.com> is disregarded in determining confusion. Thus, the disputed domain name is deemed confusingly similar to the Complainant's trade mark.

A.2 The Respondent has no rights or legitimate interests in respect of the disputed domain name

The disputed domain name was registered post-dating the Complainant's trade mark. The Respondent has no affiliation or authorisation from the Complainant, and trade mark databases and Internet searches reveal no legitimate use associated with the disputed domain name. The absence of *bona fide* offerings and the presence of misleading elements on the website at the disputed domain name further support this finding, in line with paragraph 4(a)(ii) and paragraph 4(c) of the UDRP Policy.

A.3 The Respondent registered and is using the disputed domain name in bad faith

A.3.1 Bad faith registration

The Respondent registered the disputed domain name with knowledge of the established ZOHO trade mark. Given the Respondent's location in India, it is evident that the intention behind the registration was to create confusion, indicating bad faith.

A.3.2 Bad faith use

The Respondent's website closely mimics the Complainant's branding, misleading users about its affiliation (paragraph 4(b)(iv) of the UDRP Policy). Additionally, unauthorised emails dispatched from the disputed domain name to the Complainant's partners solicit business and further entrench these deceptive practices for commercial gain.

Furthermore, the Respondent appears to have registered the domain name <gnu-health.com>, which closely resembles the domain name <gnuhealth.com>, operated by a not-for-profit organisation. The Respondent has previously been involved in a separate UDRP case (*Society for Human Resources Management v Gaurav Kumar*, WIPO Case No. D2021-0673). This establishes a pattern of registering domain names that infringe upon trade mark rights, underscoring bad faith registration and use (paragraph 4(b)(ii) of the UDRP Policy).

In summary, the Respondent's actions clearly fall within paragraph 4(a)(iii) of the UDRP Policy, substantiating bad faith in the registration and use of the disputed domain name.

B. Respondent's Submissions

The Respondent's default in this UDRP administrative proceeding has resulted in the failure to advance any substantive case on the merits.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown that the disputed domain name is identical or confusingly similar to a trade mark in which the Complainant has rights (within the meaning of paragraph 4(a)(i) of the UDRP Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant has, to the satisfaction of the Panel, shown the Respondent to have no rights or legitimate interests in respect of the disputed domain name (within the meaning of paragraph 4(a)(ii) of the UDRP Policy).

BAD FAITH

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name has been registered and is being used in bad faith (within the meaning of paragraph 4(a)(iii) of the UDRP Policy).

PROCEDURAL FACTORS

The Panel is satisfied that all procedural requirements under UDRP have been duly met, with no grounds preventing a decision from being issued.

PRINCIPAL REASONS FOR THE DECISION

A. UDRP Threshold

Pursuant to Rule 15 of the UDRP Rules, the Panel shall decide a complaint based on the statements and documents submitted, along with the UDRP Policy, the UDRP Rules, and any applicable rules and principles of law.

Under paragraph 4(a) of the UDRP Policy, the Complainant must establish three critical elements for a successful claim:

- i. The disputed domain name is identical or confusingly similar to a trade mark or service mark in which the Complainant has rights;
- 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.

The burden of proof rests with the Complainant to substantiate all three elements. The standard of evidence in UDRP administrative proceedings is the balance of probabilities. The Panel will assess each ground in turn.

B. Identical or Confusingly Similar

The Panel affirms that the Complainant has UDRP-relevant rights in the registered trade mark ZOHO since at least 2007.

The disputed domain name <zohosys.com> comprises the term 'zoho' and the additional letters 'sys', which do not materially affect the recognisability of the Complainant's trade mark. The TLD (in this case, <.com>) is typically disregarded in this assessment.

Consequently, the Panel concludes the Complainant has satisfied the first UDRP Policy requirement.

C. Rights or Legitimate Interests

The Respondent's default allows the Panel to draw adverse inferences. The evidence on record suggests that the Respondent has not been commonly known by the disputed domain name and has not obtained authorisation from the Complainant for its registration or use. Moreover, it does not appear that the Respondent has made any legitimate use of the disputed domain name for a *bona fide* offering of goods or services, nor has it demonstrated any legitimate noncommercial or fair use.

The Panel therefore finds that the Complainant has satisfied the second requirement of the UDRP Policy.

D. Registered and Used in Bad Faith

The evidence on record supports that the Respondent registered and has used the disputed domain name deliberately targeting the Complainant. The Complainant's trade mark reputation, particularly in India where the Respondent appears to reside, alongside the evident similarity with the disputed domain name, and the Respondent's failure to rebut the Complainant's claims, strongly infer bad faith.

Furthermore, the Respondent's actions in misrepresenting communications - including misleading information regarding affiliation - confirm bad faith under paragraph 4(b)(iv) of the UDRP Policy.

The Panel therefore finds that the Complainant has satisfied the third and final UDRP Policy requirement.

E. Decision

For the foregoing reasons, in accordance with paragraph 4(a) of the UDRP Policy and Rule 15 of the UDRP Rules, the Panel orders that the disputed domain name <zohosys.com> be transferred to the Complainant.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

AND THE DISPUTED DOMAIN NAME(S) IS (ARE) TO BE

- 1. **zohosys.com**: Transferred

PANELLISTS

Name	Yana Zhou
------	-----------

DATE OF PANEL DECISION	2024-12-17
------------------------	------------

Publish the Decision