Decision for dispute CAC-UDRP-107637

Case number	CAC-UDRP-107637
Time of filing	2025-06-11 10:24:37
Domain names	zoomlion.company

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	Zoomlion Heavy Industry Science and Technology Co., Ltd.

Complainant representative

Organization	Chofn Intellectual Property

Respondent

Name	Perec Ruslan

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings which are pending or decided and which relate to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant is the owner of a number of trademark registrations for “ZOOMLION” (the ”ZOOMLION trademark”), including the following representative registrations:

- the Russian trademark ZOOMLION with registration No. 364792, registered on 14 November 2008 for goods in International Class 7; and

- the International trademark ZOOMLION with registration No. 1312443, registered on 29 March 2016 for goods in International Classes 7, 11 and 12.

FACTUAL BACKGROUND

The Complainant was founded in 1992. It is a Chinese construction and agricultural machinery manufacturer. The Complainant claims to be the China’s largest and the world’s fifth largest construction machinery enterprise. It has been included in the list of Fortune China’s top 500 companies since 2010. The Complainant operates its official website at the domain name <zoomlion.com>, registered on 29 June 2001.

The disputed domain name was registered on 9 January 2025. It currently resolves to a Russian language website that prominently

displays the ZOOMLION trademark and features the ZOOMLION products of the Complainant. The website displays the following texts:

“Добро пожаловать на сайт компании Zoomlion Heavy Industry Science and Technology Company Limited. ZOOMLION — ведущий мировой производитель инженерной техники. […] Мы с удовольствием покажем Вам нашу технику в центральном складе России г. Москве”

…

“6753 патента столько мы изобрели нового 3200 т столько поднял наш гусеничный кран 101 м рукав нашего бетононасоса 23 540 человек количество наших сотрудников 80 стран дилеры”

(in English:

“Welcome to the website of Zoomlion Heavy Industry Science and Technology Company Limited. ZOOMLION is the world’s leading manufacturer of engineering machinery. […] We would be pleased to show you our machinery at our central warehouse Moscow, Russia.”

“6753 patents that is how many new inventions we have made 3200 t that is how much our crawler crane lifted 101 m the hose of our concrete pump 23540 people the number of our employees 80 countries dealers”

The website also displays a catalogue of ZOOMLION products, offers leasing and repair services for them and contact addresses and phone numbers in the Russian Federation, and includes the copyright notice “© 2025 Zoomlion Heavy Industry Science and Technology Company Limited. All rights reserved.”

There is no information about the identity of the Respondent on the website.

PARTIES CONTENTIONS

COMPLAINANT:

The Complainant submits that the disputed domain name is identical to its ZOOMLION trademark, as it incorporates the trademark entirely without any other elements.

According to the Complainant, the Respondent has no rights or legitimate interests in respect of the disputed domain name, because it is not commonly known under it, has no relevant trademark rights, and is not related to the Complainant or authorized by it to register and use a domain name that includes the ZOOMLION trademark. The Complainant submits that the Respondent is not an authorized distributor or partner of the Complainant. According to the Complainant, the Respondent’s use of the disputed domain name is not fair, because it falsely suggests to Internet users that the associated website belongs to the Complainant and shows an intent to exploit the reputation of the Complainant.

The Complainant states that the disputed domain name was registered and is being used in bad faith. It claims that its ZOOMLION trademark had already achieved a high level of global recognition at the time when the Respondent registered the disputed domain name, so it must have had knowledge of the trademark at this time. The Complainant adds that the Respondent’s knowledge is confirmed by the fact that the Respondent’s website has the same content as the Complainant’s official website.

The Complainant notes that the website at the disputed domain name is designed to appear as its own official website. According to the Complainant, this shows that the Respondent uses the disputed domain name to intentionally attempt to attract, for commercial gain, Internet users to the Respondent’s website by creating a likelihood of confusion with the ZOOMLION trademark as to the source or affiliation of the Respondent’s website and of the products and services offered there.

RESPONDENT:

The Respondent did not submit an administratively compliant Response in this proceeding. In its informal communication to the CAC, the Respondent made the following statement in Russian:

“Компания разрешила использовать товарный знак при создании сайта. Переписка с представителем компании приложена. Сертификат дилера приложен. Со спором не согласен”

in English: “The company authorized the use of the trademark in the creation of the website. Correspondence with the representative of the company is attached. Dealer certificate attached. I do not agree with the dispute” (sic)

The Respondent submitted two screenshots from a smartphone messaging application, which contain fragments of conversations in Russian between the holder of the smartphone, who is not identified (possibly the Respondent), and a contact named “Alexei Varentsov Zoomlion”. The first conversation appears to have taken place on 9 January 2025, and the fragment of it submitted by the Respondent includes an exchange of a Zoomlion price list, a question to “Alexei Varentsov Zoomlion” about the name of his company, to which “Alexei Varentsov Zoomlion” responded that its name was “Zoomlion” and sent a link to a location on an online

map. The second conversation appears to have taken place on 20 January 2025, and the fragment of it submitted by the Respondent includes an exchange of Zoomlion equipment photos, a question by the holder of the smartphone to “Alexei Varentsov Zoomlion” as to whether “anyone would be upset if the website looked like yours”, to which “Alexei Varentsov Zoomlion” responded that such thing should not happen, then the holder of the smartphone informed “Alexei Varentsov Zoomlion” that “in three weeks we will be in commercials”, to which “Alexei Varentsov Zoomlion” responded “Well done! Great!”.

The Respondent also submitted a copy of a certificate issued by “OOO Zoomlion Heavy Indistry RUS”, stating that the company “OOO POGRUZCHIK.MOSKVA” represents the issuer of the certificate and is authorized to sell certain types of Zoomlion loading and warehouse equipment on the territory of the "ЦФО" (possibly an abbreviation for the Central Federal District of the Russian Federation) and to sell spare parts and perform service, repair and warranty obligations in respect of such equipment.

RIGHTS

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

PROCEDURAL FACTORS

Language of the proceeding

The language of the Registration Agreement for the disputed domain name is Russian. Pursuant to the Rules, paragraph 11(a), in the absence of an agreement between the parties, or unless 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.

In exercising its discretion to use a language other than that of the registration agreement, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both parties, taking into account all relevant circumstances of the case, including matters such as the parties’ ability to understand and use the proposed language, time and costs (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“WIPO Overview 3.0”), section 4.5.1).

The Complainant requests that the language of the present administrative proceeding be English. The Respondent did not take any position on this issue, but submitted a Response and evidence in Russian, without requesting any translations of the Complaint and of the evidence attached to it, or of any case-related correspondence.

The Panel notes that the disputed domain name is composed of English language words, and the translation of the Complaint and of the evidence would lead to additional costs and delays.

Taking the above into account, the Panel concludes that it is more likely than not that the Respondent has sufficient knowledge of English and would not be prejudiced if the language of the administrative proceeding is English, and that using the English language will contribute to the efficiency of the proceeding. On this basis, the Panel decides that the language of this proceeding shall be English.

Having resolved the above issue, the Panel is satisfied that all procedural requirements under UDRP have been met and there is no reason why it would be inappropriate to render a decision on the substance of the dispute.

PRINCIPAL REASONS FOR THE DECISION

Pursuant to the Policy, paragraph 4(a), a complainant must prove each of the following to justify the transfer of a domain name:

(i) the domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights;

(ii) the respondent has no rights or legitimate interests in respect of the domain name; and

(iii) the domain name was registered and is being used in bad faith.

In this case, the Provider has employed the required measures to achieve actual notice of the Complaint to the Respondent, and the Respondent was given a fair opportunity to present its case.

By the Rules, paragraph 5(c)(i), it is expected of a respondent to: "[r]espond specifically to the statements and allegations contained in the complaint and include any and all bases for the Respondent (domain name holder) to retain registration and use of the disputed domain name …"

Identical or confusingly similar

The Complainant has provided evidence and has thus established its rights in the ZOOMLION trademark.

The Panel notes that a common practice has emerged under the Policy to disregard in appropriate circumstances the general Top-Level Domain ("gTLD") section of domain names for the purposes of the comparison under the Policy, paragraph 4(a)(i). The Panel sees no reason not to follow the same approach here, and will disregard the ".company" gTLD section of the disputed domain name for the purposes of the first element of the Policy.

The disputed domain name reproduces the ZOOMLION trademark entirely without any other elements.

In view of the above, the Panel finds that the disputed domain name is identical to the ZOOMLION trademark in which the Complainant has rights.

Rights and legitimate interests

While the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often-impossible task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element.

The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name, because there is no relationship between the Parties and the Respondent is not commonly known under the disputed domain name. The Complainant points out that the disputed domain name is not used for a bona fide activity, because it resolves to a website that impersonates the Complainant. Thus, the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name.

The Respondent claims that the Complainant has authorized the use of the ZOOMLION trademark on the Respondent's website, and refers to correspondence with a person whom the Respondent claims to be a representative of the Complainant. The two screenshots from a smartphone messaging application submitted by the Respondent contain fragments of conversations in Russian between persons whose identity has not been ascertained by the Respondent. Even if it is accepted that one of the participants (the holder of the smartphone) is the Respondent, the only information about the other participant is that the entry for it in the contacts list of the smartphone is named "Alexei Varentsov Zoomlion". The Respondent has not provided any evidence about the existence and the alleged position of a person named Alexei Varentsov in the Complainant's company, or any evidence that it was this person who participated in the exchange of messages with the holder of the smartphone. Even if, for the sake of argument, it accepted that a person named Alexei Varentsov really exists and is a representative of the Complainant and that it was him who participated in the exchanges with the holder of the smartphone, the fragments of conversations submitted by the Respondent do not contain any statement by this person, made on behalf of the Complainant, that he agrees to the registration and use of the disputed domain name by the Respondent. The only possibly relevant statements by the participant in the conversation with the entry name "Alexei Varentsov Zoomlion" refer to an unidentified website in respect of which the holder of the smartphone asks him whether "anyone would be upset if the website looked like yours", to which "Alexei Varentsov Zoomlion" responded that such thing should not happen, and to his approval of the information by the holder of the smartphone that "in three weeks we will be in commercials". There is no evidence that the unidentified website discussed by the participants in the conversation is the Respondent's website at the disputed domain name, and no evidence that "Alexei Varentsov Zoomlion" was aware of the registration and use by the Respondent of the disputed domain name for such website.

The Respondent has also submitted a document that it refers to as a "Dealer certificate". This document is issued by "OOO Zoomlion Heavy Indistry RUS" and states that a company with the name "OOO POGRUZCHIK.MOSKVA" is authorized to sell certain types of Zoomlion loading and warehouse equipment in part of the Russian Federation and to sell spare parts and perform service, repair and warranty obligations in respect of such equipment. There is however no evidence that the Respondent has any relationship with the company "OOO POGRUZCHIK.MOSKVA" (the website at the disputed domain name does not mention such company), and no evidence that the issuer of the certificate is related to the Complainant. Even if one accepts, for the sake of

argument, that such relationships actually exist, the text of the document does not mention any authorization of "OOO POGRUZCHIK.MOSKVA" to register and use any domain names, let alone such that include the ZOOMLION trademark.

Considering the above, the Panel concludes that the evidence submitted by the Respondent does not show that the Complainant was aware of the registration and use of the disputed domain name by the Respondent and of the content and design of the associated website, and that the Complainant has approved, or not objected to, these actions of the Respondent.

The Panel therefore considers that the circumstances of this case do not support a finding that the Respondent has rights or legitimate interests in the disputed domain name. It is identical to the Complainant's ZOOMLION trademark, which creates a high risk of implied affiliation, and excludes the possibility for application of the Oki Data test (WIPO Overview 3.0, section 2.5.8). The risk of implied affiliation is further increased by the use of the disputed domain name for a Russian-language website that offers the Complainant's ZOOMLION equipment and uses language that impersonates the Complainant (such as referring to the Complainant as "we" or "us" and to the Complainant's machinery as "our" machinery), displays a copyright notice with the name of the Complainant without any disclaimer for the absence of any affiliation of the website with the same. This design and content of the Respondent's website creates a strong false impression that it is the official website of the Complainant for the Russian Federation, which is contrary to the requirements of the Oki Data test, even if the same were applicable. Such use of the disputed domain name cannot give rise to rights or legitimate interests of the Respondent in it.

On this basis, the Panel finds that the Respondent does not have rights or legitimate interests in the disputed domain name.

Bad faith

Paragraph 4(b) of the Policy lists four illustrative alternative circumstances that shall be evidence of the registration and use of a domain name in bad faith by a respondent, namely:

"(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 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 your website or location or of a product or service on your website or location."

The registration of the Complainant's ZOOMLION trademark predates with seventeen years the registration of the disputed domain name, which is identical to it. The associated website is deceptively designed to appear as the official website of the Complainant for the Russian Federation, and includes no information about the identity of the Respondent or a disclaimer for the absence of a relationship between the Parties. The Respondent confirms his knowledge of the Complainant and its trademark by claiming to have had conversations with the Complainant's representative. This leads the Panel to the conclusion that the Respondent has registered and is using the disputed domain name with knowledge of the Complainant's ZOOMLION trademark and with the intention to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's trademark as to the source or affiliation of the Respondent's website. This satisfies the Panel that the disputed domain name has been registered and used in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **zoomlion.company**: Transferred

PANELLISTS

Name	**Assen Alexiev**

DATE OF PANEL DECISION 2025-07-16

Publish the Decision