

## ADMINISTRATIVE PANEL DECISION

Z&V v. Client Care, Web Commerce Communications Limited  
Case No. D2024-1435

### 1. The Parties

The Complainant is Z&V, France, represented by Nameshield, France.

The Respondent is Client Care, Web Commerce Communications Limited, Malaysia.

### 2. The Domain Name and Registrar

The disputed domain name <zadigetvoltaireuk.com> is registered with Alibaba.com Singapore E-Commerce Private Limited (the “Registrar”).

### 3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 4, 2024. On April 5, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 7, 2024, 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 (*Unknown*) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 8, 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 amended Complaint on April 8, 2024.

The Center verified that the Complaint together with the amended 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 April 10, 2024. In accordance with the Rules, paragraph 5, the due date for Response was April 30, 2024. The Respondent did not formally submit any formal response but sent an email communication to the Center on April 11, 2024. The Center notified the Commencement of Panel Appointment Process on May 1, 2024.

The Center appointed Luis Miguel Beneyto Garcia-Reyes as the sole panelist in this matter on May 16, 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 based in France and carries out its activities in the fashion, accessories, and perfume sectors.

The Complainant owns, among others, the European Union Trademark registration, No. 005014171 ZADIG & VOLTAIRE in class 3 registered on June 8, 2007.

ZADIG & VOLTAIRE can be considered a well-known brand in its sector of activity as recognized by the Center and corroborated by limited additional investigations carried out by the Panel.

The Respondent proceeded to use the disputed domain name to offer products identical or very similar to those of the Complainant purportedly selling the Complainant's products for discounted prices without any disclaimer disclosing the lack of relationship with the Complainant, also displaying one or various of its trademarks.

The disputed domain name currently identifies a website on which no relevant content is offered and can be considered as inactive.

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

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

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that:

The Complainant, is a French company established in 1997 in the fashion accessories and perfumes industries.

The Complainant is the owner, of various trademarks for ZADIG & VOLTAIRE.

The Complainant's trademark is well known as it has been recognized in previous decisions (like in the case *Z&V v. 颜文君 (Wen Jun Yan)*, WIPO Case No. [D2021-0918](#)).

The disputed domain name incorporates the Complainant's trademark, and the ampersand sign replaces the French equivalent word "et" ("and" in English) which does not eliminate the likelihood of confusion with the Complainant's trademark. Also the addition of the geographic term "uk" (United Kingdom) is not sufficient to avoid that the disputed domain name is confusingly similar to the Complainant's trademark. Consequently, the disputed domain name is confusingly similar to the Complainant's trademark ZADIG & VOLTAIRE.

The Respondent has no rights or legitimate interests in respect of the disputed domain name, as it is not known by the disputed domain name, it is not a licensee or distributor of the Complainant and neither license or authorization has been granted to the Respondent to use the Complainant's trademark.

Finally, the Complainant contends that the Respondent has registered the disputed domain name and is using it in bad faith. Considering the distinctiveness of the Complainant's trademark and its reputation, it is

reasonable to conclude that the Respondent has registered the disputed domain name with full knowledge of the Complainant's trademark, so it was registered in bad faith. The disputed domain name resolves to a website displaying the Complainant's trademark and offering competing goods so it has been used in bad faith with the intention of obtaining a commercial gain.

## **B. Respondent**

The Respondent did not formally reply to the Complainant's contentions. However, on April 11, 2024, the Respondent sent an informal communication to the Center to request some documents to which the Center acknowledged receipt.

## **6. Discussion and Findings**

### **A. Identical or Confusingly Similar**

The Complainant has accredited its ownership of a trademark registration for ZADIG & VOLTAIRE. Therefore, the Panel finds the Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.2.1.

In the Panel's view, and by comparing the Complainant's trademark with the disputed domain name, the Complainant's trademark ZADIG & VOLTAIRE is recognizable within the disputed domain name. The only difference between the trademark and the disputed domain name is the substitution of the sign "&" for the term "et", and the addition of the acronym "uk" in the disputed domain name. Neither of these two elements prevent a finding of confusing similarity, as the sign "&" is an ampersand meaning the same as "et" ("and") and the acronym "uk" is merely a geographical indication. [WIPO Overview 3.0](#), section 1.8.

Therefore, the Panel finds the disputed domain name to be confusingly similar to the ZADIG & VOLTAIRE trademark in which the Complainant has rights.

The Panel finds the first element of the Policy has been established.

### **B. Rights or Legitimate Interests**

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although 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 difficult 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 (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds 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.

Panels have held that the use of a domain name for illegal activity, here, claimed as applicable to this case: impersonation/passing off, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1. In the present case, the use of the disputed domain to impersonate the Complainant can never confer rights or legitimate interests.

Furthermore, the composition of the disputed domain name carries a risk of implied affiliation. [WIPO Overview 3.0](#), section 2.5.1.

The Panel finds the second element of the Policy has been established.

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

Considering the arguments and proven circumstances on the record, the Panel finds that the disputed domain name was registered and used in bad faith.

The Complainant has established that the disputed domain name was used by the Respondent as one or more of the Complainant's trademarks, purportedly offering Internet users the Complainant's products for discounted prices without any disclaimer disclosing the lack of relationship with the Complainant. The only conclusions that can be drawn from this premise are the following:

First, that the registration was obtained for the express purpose of carrying out such use, the Respondent being aware that Internet users or consumers would most likely associate the origin of its website identified with the disputed domain name, to Complainant. The Panel finds that the registration of the disputed domain name was therefore obtained in bad faith.

Second, the use of the disputed domain name to offer goods presumably identical to those of the Complainant, while using one or more of the Complainant's trademarks that identify the Complainant to consumers, is a clear indication that, as stated in paragraph 4(b)(iv) of the Policy, the Respondent registered the disputed domain name with the intention of "... intentionally attract, for commercial gain, Internet users to its website or other online site by creating confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of its website or online site or of a product or service on its website or online site". Additionally, panels have held that the use of a domain name for illegal activity such as impersonation/passing off of the Complainant, as in the present case, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

Lastly, the Panel finds the current non-use of the disputed domain name does not prevent a finding of bad faith in the circumstances of this proceeding. [WIPO Overview 3.0](#), section 3.3.

The Panel finds that the Complainant has established the third element 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 <zadigetvoltaireuk.com> be transferred to the Complainant.

*/Luis Miguel Beneyto Garcia-Reyes/*  
**Luis Miguel Beneyto Garcia-Reyes**  
Sole Panelist  
Date: May 30, 2024