

ADMINISTRATIVE PANEL DECISION

Z&V v. Lynda Landry
Case No. D2024-2694

1. The Parties

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

The Respondent is Lynda Landry, Germany.

2. The Domain Name and Registrar

The disputed domain name <zadigvoltairegreece.com> is registered with Mat Bao Corporation (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on July 5, 2024. On the same day, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 8, 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 (Domain Admin, Whoisprotection.cc) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 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 July 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 July 9, 2024. In accordance with the Rules, paragraph 5, the due date for Response was July 29, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on July 30, 2024.

The Center appointed Ada L. Redondo Aguilera as the sole panelist in this matter on August 5, 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 Z&V, that operates under the trading name ZADIG & VOLTAIRE a French luxury company established in 1997 by Thierry Gillier a leader in the fashion industry.

The Complainant is the owner of the trademark ZADIG & VOLTAIRE for ready-to-wear couture fashion, accessories, and perfumes and presented evidence of the following registrations:

- The European Union Trademark ZADIG & VOLTAIRE registration number 005014171 registered on June 08, 2007
- The international trademark ZADIG & VOLTAIRE registration number 907298 registered on September 15, 2006.

The Complainant also is the owner of an important domain name portfolio, including the same distinctive wording ZADIG & VOLTAIRE, such as the domain name <zadig-et-voltaire.com> that is currently in use for its official website since May 16, 2002.

The disputed domain name was registered on April 30, 2024, and redirects to an online store selling clothes and accessories at discounted prices under the name ZADIG & VOLTAIRE.

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 disputed domain name is confusingly similar to its ZADIG & VOLTAIRE trademark due to the fact that includes the trademark with the inclusion of the additional geographical term "greece" and without the sign "&" between "Zadig" and "Voltaire".

Also, the Complainant argues that the Respondent has no rights or legitimate interests with respect to the disputed domain name. The Complainant contends that the Respondent has used the disputed domain name to disrupt Complainant's business and to attract users by impersonating the Complainant. Finally, the Respondent registered and is using the disputed domain name in bad faith. The Complainant requests the transfer of the disputed domain name.

B. Respondent

The Respondent did not reply to the Complainant's contentions.

6. Discussion and Findings

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

Almost the entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the disputed domain name does not have the sign "&" as the trademark does (ZADIG & VOLTAIRE) and the addition of the term "greece" may bear on assessment of the second and third elements, the Panel finds the omission of the sign and the addition of such term do not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The only differences between the disputed domain name <zadigvoltairegreece.com> and the Complainant's trademark is that the disputed domain name does not have the sign "&" between "Zadig" and "Voltaire" (as the trademark) and the addition of the geographical name "Greece", which do not prevent to identify the Complainant's trademark.

The addition of the generic Top-Level Domain ("gTLD") ".com" in the disputed domain name is a standard registration requirement and is therefore disregarded under the confusing similarity test under the Policy, paragraph 4(a)(i). See [WIPO Overview 3.0](#), section 1.11.1.

In conclusion, the Panel determines that the disputed domain name is confusingly similar to the Complainant's trademark.

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 the 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.

In the present case, there is no evidence that the Respondent is commonly known by the disputed domain name. There is no evidence that the Respondent has rights or legitimate interests in respect of the domain name and the Respondent is not related to the Complainant in any way. The Complainant does not carry out any activity with the Respondent, nor does it have any business with the Respondent. No license or

authorization has been granted by the Complainant to the Respondent to make any use of the Complainant's trademark ZADIG & VOLTAIRE, or to apply for registration of the disputed domain name.

Accordingly, the Complainant presented enough evidence that Respondent is using the disputed domain name to disrupt Complainant's business and to attract users by impersonating the Complainant. Panels have held that the use of a domain name for illegal activity or other types of fraud, in the present case impersonation/passing off, can never confer rights or legitimate interests on a respondent.

[WIPO Overview 3.0](#), section 2.13.1.

Moreover, the Panel finds that the disputed domain name is inherently misleading. [WIPO Overview 3.0](#), section 2.5.1.

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.

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

C. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

In the present case, the Panel observes that the Respondent registered the disputed domain name that incorporates almost in its entirety the Complainant's trademark and given the distinctiveness of its trademark, and its global reputation it is difficult to believe that the Respondent registered the disputed domain name not knowing the trademark and without bad faith. In fact, the disputed domain name resolves to an online store selling competing goods under the name ZADIG & VOLTAIRE.

On these facts, given the distinctiveness of the Complainant's trademark and reputation, it is reasonable to infer that the Respondent has registered the disputed domain name with full knowledge of the Complainant's trademark.

The Panel finds that the disputed domain name is being used in bad faith. This is evidenced by the fact that the disputed domain name resolves to an online store selling competing goods under the name ZADIG & VOLTAIRE. It is often considered bad faith to use a domain name in order to offer competing products or services, when the intention is to disrupt the business of the owner of the relevant mark as it happens in the current case.

By using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website 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 the Respondent's website or location or of a product or service on the Respondent's website or location, as mentioned by Policy, paragraph 4(b)(iv). [WIPO Overview 3.0](#), section 3.1.4.

Moreover, Panels have held that the use of a domain name for illegal activity or other types of fraud, here impersonation/passing off, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

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 <zadigvoltairegreece.com> be transferred to the Complainant.

/Ada L. Redondo Aguilera/

Ada L. Redondo Aguilera

Sole Panelist

Date: August 19, 2024