

## **ADMINISTRATIVE PANEL DECISION**

### **Zalto Glas GmbH v. DODSONCLAYTON**

### **Case No. D2025-0545**

#### **1. The Parties**

The Complainant is Zalto Glas GmbH, Austria, represented by Selting Attorneys at Law, Germany.

The Respondent is DODSONCLAYTON, United States of America ("United States").

#### **2. The Domain Name and Registrar**

The disputed domain name <zaltoglass.shop> is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the "Registrar").

#### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on February 12, 2025. On February 13, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 14, 2025, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on February 18, 2025, 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 February 19, 2025.

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 February 20, 2025. In accordance with the Rules, paragraph 5, the due date for Response was March 12, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on March 13, 2025.

The Center appointed David Taylor as the sole panelist in this matter on March 21, 2025. 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 an Austrian company engaged in the manufacturing of hand-blown fine glassware, primarily wine glasses, with the first series of glasses introduced in 2004.

The Complainant is the owner of a number of trademark registrations for ZALTO, including the following:

- European Union Trade Mark No. 008242166, ZALTO, registered on October 21, 2009; and
- International Trademark Registration No. 1053697, ZALTO, registered on September 6, 2010.

The Complainant is also the registrant of the domain name <zaltoglas.at>, at which it operates a consumer-facing website, as well as the domain name <zalto.shop> which serves as the Complainant's online store.

The disputed domain name was registered on July 20, 2024. Prior to submission of the Complaint, the disputed domain name resolved to a website entitled "ZALTO" that purported to sell glassware, including items bearing the Complainant's ZALTO trademark as well as third-party products (the "Respondent's website"). At the time of this decision, the disputed domain name does not resolve to an active website.

#### **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.

The Complainant asserts rights in the ZALTO trademark and submits that the disputed domain name is confusingly similar to its trademark.

The Complainant submits that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant states that it has not granted any licence or permission for the Respondent to use its trademark, nor is there any commercial relationship between the Complainant and the Respondent. The Complainant asserts that the Respondent is using the Complainant's trademark in the fraudulent operation of a fake online store.

The Complainant submits that the Respondent registered and is using the disputed domain name in bad faith. The Complainant observes that the registration of its ZALTO trademark substantially predates the Respondent's registration of the disputed domain name, and submits that the Respondent must have been aware of the Complainant's rights, having done so with the intention to cause confusion with the Complainant. The Complainant notes that the Respondent's website purported to offer the Complainant's goods for sale. The Complainant states that it carried out a test purchase via the Respondent's website, and asserts that no such goods were delivered. The Complainant submits that the Respondent is operating a fraudulent website. The Complainant further notes that the Respondent has been named in at least nine prior UDRP decisions, all of which involved domain names registered under the generic Top-Level Domain ("gTLD") ".shop" and submits that the Respondent has engaged in a pattern of abusive domain name registration.

The Complainant requests transfer of the disputed domain name.

## B. Respondent

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

## 6. Discussion and Findings

In order to prevail, the Complainant must demonstrate on the balance of probabilities that it has satisfied the requirements of paragraph 4(a) of the Policy:

- (i) The disputed 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 disputed domain name; and
- (iii) The disputed domain name was registered and is being used in bad faith.

### 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 the trademark ZALTO for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The disputed domain name comprises the Complainant's ZALTO trademark as its leading element, followed by the term "glass", under the gTLD ".shop". The Panel finds that the addition of the term "glass" does not prevent a finding of confusing similarity between the disputed domain name and the Complainant's ZALTO trademark which remains clearly recognizable in the disputed domain name. [WIPO Overview 3.0](#), section 1.8.

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

### B. Rights or Legitimate Interests

As noted above, the disputed domain name previously resolved to a website that purported to offer the Complainant's goods for sale. Prior UDRP panels have recognized that unauthorized resellers using a domain name containing a complainant's trademark to undertake sales or repairs related to the complainant's goods may be making a bona fide offering of goods or services and thus have a legitimate interest in such domain name. [WIPO Overview 3.0](#), section 2.8. See also *Oki Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#). In this instance, the Panel notes the Complainant's claims that the Respondent is operating a fraudulent web store, seeking to obtain payment for goods that the Respondent has no intention of providing. Even if such goods were indeed offered for sale, the Panel further observes that the Respondent's website purported to offer third-party products. As such, the Respondent's website did not exclusively offer the Complainant's goods. Nor did the Respondent's website contain a disclaimer clarifying the Respondent's non-affiliation with the Complainant. Such use is likely to create confusion amongst Internet users seeking the Complainant as to the source of the disputed domain name as well as the goods offered on the Respondent's website and does not amount to use of the disputed domain name in connection with a bona fide offering of goods or services pursuant to paragraph 4(c)(i) of the Policy.

The Panel further notes that there is no prior commercial relationship between the Parties authorizing the Respondent to act as a reseller of the Complainant's goods, the goods listed on the Respondent's website were offered at substantially discounted prices, and the Respondent has not come forward with any evidence

of legitimate use of the disputed domain name. The Panel accepts the Complainant's assertions that the Respondent was operating a fake web store aimed at misleading Internet users. Panels have held that the use of a domain name for illegal activity such as impersonation/passing off, or other types of fraud can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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

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

It is apparent from the Respondent's use of the disputed domain name, as described above, that the Respondent was aware of the Complainant's rights in the ZALTO trademark, which predate the registration of the disputed domain name by well over 10 years. The Panel notes that the disputed domain name resembles the Complainant's official domain names <zaltoglas.at> and <zalto.shop> and finds that the Respondent registered the disputed domain name with a view to creating a misleading impression of association with the Complainant, in bad faith. The Panel further notes that the Respondent has been named in numerous prior UDRP decisions involving the registration of domain names containing third-party trademarks under the gTLD ".shop" and finds that the Respondent has engaged in a pattern of abusive domain name registration, further evidencing the Respondent's bad faith.

As noted above, the disputed domain name previously resolved to a website that purported to offer for sale goods bearing the Complainant's trademark. The Panel infers that the Respondent was in fact operating a fake web store aimed at misleading Internet users seeking the Complainant's goods online. Given that the use of a domain name for per se illegitimate activity can never confer rights or legitimate interests on a respondent, such behavior is manifestly considered evidence of bad faith. [WIPO Overview 3.0](#), section 3.1.4. 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 <zaltoglass.shop> be transferred to the Complainant.

*/David Taylor/*

**David Taylor**

Sole Panelist

Date: April 4, 2025