

ADMINISTRATIVE PANEL DECISION

Z&V v. Ye Li

Case No. DNL2022-0048

1. The Parties

The complainant is Z&V, France, represented by Nameshield, France (the “Complainant”).

The registrant of the disputed domain name is Ye Li, China (the “Respondent”).

2. The Domain Name and Registrar

The disputed domain name <zadigetvoltaire.nl> (the “Disputed Domain Name”) is registered with SIDN through Domain Robot.

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 12, 2022. On December 13, 2022, the Center transmitted by email to SIDN a request for registrar verification in connection with the Disputed Domain Name.

On December 14 and 15, 2022, SIDN 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 December 15, 2022, providing the information disclosed by SIDN, and inviting the Complainant to amend the Complaint in this light. The Complainant filed an amended Complaint on December 15, 2022.

The Center verified that the Complaint as amended satisfies the formal requirements of the Dispute Resolution Regulations for .nl Domain Names (the “Regulations”).

In accordance with the Regulations, articles 5.1 and 16.4, the Center formally notified the Respondent of the Complaint and the proceedings commenced on December 16, 2022. In accordance with the Regulations, article 7.1, the due date for Response was January 5, 2023. The Center did not receive any response. Accordingly, the Center notified the Respondent’s default on January 6, 2023.

The Center appointed Moïra Truijens as the panelist in this matter on January 13, 2023. The Panel finds that it was properly constituted. The Panelist has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required to ensure compliance with the Regulations, article 9.2.

4. Factual Background

The Complainant is operating under the brand ZADIG & VOLTAIRE. The Complainant is a French company in the fashion industry, for ready-to-wear fashion, accessories, and perfumes.

The Complainant is the owner of a large trademark portfolio, amongst others:

- the European Union (“EU”) Trade Mark ZADIG & VOLTAIRE with number 005014171 registered since March 17, 2006; and
- the International trademark ZADIG & VOLTAIRE with number 907298 registered on September 15, 2006

(hereafter together: “the Trademarks”).

The Complainant also owns a large domain name portfolio, containing the Trademarks, such as the domain name <zadig-et-voltaire.com> registered and used for its official website since May 16, 2002.

The Disputed Domain Name was registered on November 23, 2022, and resolves to a parking page with commercial links. In addition, the Respondent has offered the Disputed Domain Name for sale for USD 8,500.

5. Parties’ Contentions

A. Complainant

The Complainant asserts that the Disputed Domain Name is confusingly similar to the Trademarks. The Complainant owns several trademark registrations for ZADIG & VOLTAIRE (both figurative and word trademarks) in various jurisdictions, including in the Netherlands.

The Complainant notes that the Disputed Domain Name consists of the Trademarks, with the substitution of the “&” by its French equivalent “et”. The Complainant contends that this does not prevent a finding of confusing similarity. See *Zv Holding v. Nitish Ghuse*, WIPO Case No. [DNL2019-0052](#)

Pursuant to established case law under the Regulations, the applicable country code Top-Level Domain (“ccTLD”) “.nl” is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test.¹

The Complainant is required to make out a *prima facie* case that the Respondent lacks rights or legitimate interests. Once such *prima facie* case is made, the Respondent carries the burden of demonstrating rights or legitimate interests in the domain name (see, *Technische Unie B.V. and Otra Information Services v. Technology Services Ltd*, WIPO Case No. [DNL2008-0002](#)).

The Complainant asserts that the Respondent has not been and is not commonly known by the Disputed Domain Name.

The Complainant contends that the Respondent has no rights or legitimate interests in respect to the Disputed Domain Name, and that he is not related in any way to the Complainant. The Complainant does not carry out any activity for, nor has any business with the Respondent.

Neither license, nor authorization has been granted to the Respondent to make any use of the Complainant’s Trademarks or apply for registration of the Disputed Domain Name by the Complainant.

¹ *Roompot Recreatie Beheer B.V. v. Edoco LTD*, WIPO Case No. [DNL2008-0008](#).

Furthermore, the Disputed Domain Name resolves to a parking page with commercial links and is offered for sale. The Complainant contends this general offer to sell the Disputed Domain Name evidences the Respondent's lack of rights or legitimate interests.

The Complainant concludes by stating that the Disputed Domain Name is registered and used in bad faith. The Trademarks are included in its entirety, the "&" is replaced by the French equivalent "et", as in the Complainant's official domain name <zadig-et-voltaire.com>. Moreover, this term has no other meaning in any language, and all the results in a search engine are related to the Complainant's products. Therefore, there is no doubt that the Respondent has registered the Disputed Domain Name with full knowledge of the Trademarks.

Furthermore, the website resolving to the Disputed Domain Name is a parking page with commercial links and displays the message: "Le propriétaire met en vente le domaine zadigetvoltaire.nl au prix de 8500 USD!" which means: "Buy this domain - The owner sell the domain name zadigetvoltaire.nl for 8500 EUR!"

The Complainant contends the Respondent has attempted to attract Internet users for commercial gain to his own website by using the Trademarks, which also is evidence of bad faith.

Finally, the Respondent has already been involved in numerous domain name proceedings. See for example *CrowdStrike, Inc. v. Ye Li*, WIPO Case No. [DNL2022-0033](#); *Gianni Versace S.r.l. v. Ye Li*, WIPO Case No. [DMX2022-0028](#); and *Natixis v. Ye Li*, WIPO Case No. [DNL2022-0013](#).

B. Respondent

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

6. Discussion and Findings

According to article 2.1 of the Regulations, the requested remedy shall be granted if the Complainant asserts and establishes each of the following:

(a) the disputed domain name is identical or confusingly similar to:

(i) a trademark, or trade name, protected under Dutch law in which the complainant has rights; or
(ii) a personal name registered in the General Municipal Register ("gemeentelijke basisadministratie") of a municipality in The Netherlands, or the name of a Dutch public legal entity or the name of an association or foundation registered in The Netherlands under which the complainant undertakes public activities on a permanent basis; and

(b) the respondent has no rights to or legitimate interests in the disputed domain name; and

(c) the disputed domain name has been registered or is being used in bad faith.

A. Identical or Confusingly Similar

The Complainant has shown several trademark registrations for ZADIG & VOLTAIRE in the EU and the Benelux, including in the Netherlands. The Disputed Domain Name is confusingly similar to the Trademarks as it incorporates the Trademarks in its entirety, where only the ampersand is replaced by the French equivalent "et", as in the Complainant's official domain name <zadig-et-voltaire.com>.

Additionally, the ccTLD ".nl" is typically disregarded under the confusing similarity test, since it is a technical registration requirement (see section 1.11 of WIPO Overview of WIPO Panel Views on Selected UDRP

Questions, Third Edition ("[WIPO Overview 3.0](#)")².

The Panel therefore finds that the Disputed Domain Name is confusingly similar to the Trademarks of the Complainant, and that the Complainant has thus established the first element of article 2.1 of the Regulations.

B. Rights or Legitimate Interests

A complainant bears the burden of showing *prima facie* that the respondent has no rights to or legitimate interests in the domain name. If a complainant succeeds in making a *prima facie* case, the burden of production shifts to the respondent, which will then have to come forward with appropriate allegations or evidence demonstrating rights to or legitimate interests in the domain name (*Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#)).

Article 3.1 of the Regulations provides circumstances in which such rights or legitimate interests to a domain name may be demonstrated. These circumstances include i) use of the domain name in connection with a *bona fide* offering of goods or services; ii) being commonly known by the domain name; and iii) making legitimate noncommercial or fair use of the domain name.

Based on the evidence and the undisputed submissions of the Complainant, the Panel concludes that the Respondent has not received the Complainant's consent to use the Trademarks as part of the Disputed Domain Name, nor that it has otherwise been authorized to use the Trademarks.

The Respondent has not provided evidence, nor is there any indication in the record of this case, that the Respondent is commonly known by the Disputed Domain Name.

The Respondent did not demonstrate any use or demonstrable preparation to use the Disputed Domain Name in connection with a *bona fide* offering of goods or services. To the contrary, as the Respondent has been using the Disputed Domain Name for commercial gain by misleading Internet users seeking the Complainant's website, thereby taking unfair advantage of the Complainant's reputation and goodwill associated with the Trademarks.

Finally, in the circumstances of this case, the Panel finds that a lack of rights to or legitimate interests in the Disputed Domain Name on the part of the Respondent is further supported by the fact that no response was filed by the Respondent.

The Panel concludes that the Complainant has met the second requirement of article 2.1(b) of the Regulations.

C. Registered or Used in Bad Faith

In accordance with article 3.2 of the Regulations, the Complainant must show that the Disputed Domain Name was registered or is being used in bad faith. Several circumstances, put forward by the Complainant, make that the Panel finds that this is so.

When the Respondent registered the Disputed Domain Name, the Trademarks had already been registered and were being used by the Complainant. Given the well-known character of the Trademarks, the Panel finds that at the time of registration of the Disputed Domain Name, the Respondent knew or should have known that it would be confusingly similar to the Trademarks.

² In view of the fact that the Regulations are substantially similar to the Uniform Domain Name Dispute Resolution Policy ("UDRP"), it is well established that both cases decided under the Regulations and cases decided under the UDRP, and therefore [WIPO Overview 3.0](#), may be relevant to the determination of this proceeding (see, e.g., *Aktiebolaget Electrolux v. Beuk Horeca B.V.*, WIPO Case No. [DNL2008-0050](#)).

Furthermore, the website in connection with the Disputed Domain Name is a parking page with commercial links and displays the following message in French: “Le propriétaire met en vente le domaine zadigetvoltaire.nl au prix de 8500 USD!”, which translated to English means: “Buy this domain - The owner sell the domain name zadigetvoltaire.nl for 8500 EUR!”. The Panel finds that the facts of the case, point to an intent on the part of the Respondent to unfairly profit from the Complainant’s Trademarks in this regard. The Disputed Domain Name is being used for commercial gain, by attracting Internet users to the Respondent’s website through the likelihood of confusion which may arise with the Complainant’s Trademark as described in article 3.2(d) of the Regulations.

Additionally, further confirmation of bad faith can be found in the fact that the Respondent has already been involved in numerous domain name proceedings, which have all been decided against the Respondent (see for example, *CrowdStrike, Inc. v. Ye Li*, supra; *Gianni Versace S.r.l. v. Ye Li*, supra; and *Natixis v. Ye Li*, supra).

Therefore, the Panel finds that the Respondent has registered the Disputed Domain Name in bad faith and has satisfied the requirement of article 2.1 sub c. of the Regulations.

7. Decision

For all the foregoing reasons, in accordance with articles 1 and 14 of the Regulations, the Panel orders that the Disputed Domain Name, <zadigetvoltaire.nl>, be transferred to the Complainant.

/Moira Truijens/

Moira Truijens

Panelist

Date: January 27, 2023