Decision for dispute CAC-UDRP-103350

Case number	CAC-UDRP-103350
Time of filing	2020-10-23 09:28:29
Domain names	zadigettvoltaire.com

Case administrator

Organization	Denisa Bilík (CAC) (Case admin)

Complainant

Organization	ZV HOLDING

Complainant representative

Organization	Nameshield (Laurent Becker)

Respondent

Organization	Iris Aaron (textile)

OTHER LEGAL PROCEEDINGS

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

IDENTIFICATION OF RIGHTS

The Complainant is the owner of international trademark 907298 "ZADIG & VOLTAIRE", which was registered on 15 September 2006 in Nice Classification classes 3, 14, 16, 18, 20, 24, 25, 35 and 43 following a basic French registration. It is furthermore the holder of the <zadig-et-voltaire.com> domain name, registered in 2002.

The Respondent is the holder of the disputed domain name <zadigettvoltaire.com>, which was registered on 9 October 2020.

FACTUAL BACKGROUND

FACTS ASSERTED BY THE COMPLAINANT AND NOT CONTESTED BY THE RESPONDENT:

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

The Respondent's contact details are given as being in Brentwood, California, in the United States.

The disputed domain name is associated with a free parking page hosted by Hostinger, a different entity from the disputed domain name's registrar, Public Domain Registry.

PARTIES CONTENTIONS

PARTIES' CONTENTIONS:

COMPLAINANT:

The addition of the letter “T” in the dispute domain name is not sufficient to escape a finding that the domain name is confusingly similar to the Complainant's "ZADIG & VOLTAIRE" trademark.

This is a clear case of "typosquatting“, i.e. the disputed domain name contains an obvious misspelling of the Complainant’s trademark. Previous Panels have found that slight spelling variations do not prevent a disputed domain name from being confusingly similar to the Complainant’s trademark (see WIPO Cases No. D2004-0296 Costco Wholesale Corporation v. Yong Li (<coscto.com>) and No. D2015-0451 Clarins v. “-“, Unknown Registrant” / Registration Private, Domains By Proxy, LLC (<calrins.com>)).

By registering the domain name < zadigettvoltaire.com > with the misspelling of the trademark ZADIG & VOLTAIRE by addition of the letter “T”, the Complainant contends that this misspelling was, moreover, intentional, which evidences bad faith (see for instance NAF case No. FA 877979, Microsoft Corp. v. Domain Registration Philippines, in which <microssoft.com> was found to be bad faith registration and use of the Complainant's mark).

Furthermore, the disputed domain name resolves to a parking page, which indicates that the Respondent registered and is using the disputed domain name in bad faith in order to attract Internet users to its website by creating a likelihood of confusion with the Complainant’s trade mark as to source, affiliation or endorsement within the meaning of paragraph 4(b)(iv) of the Policy.

RESPONDENT: NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

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

The Panel is satisfied that all procedural requirements under UDRP were met and there is no other reason why it would be inappropriate to provide a decision.

PRINCIPAL REASONS FOR THE DECISION

The Complainant is the owner of the international trade mark "Zadig&Voltaire", a mark fully incorporated in the Complainant's domain name <zadig-et-voltaire.com> by choice of the French conjunctive "et" in place of the ampersand within the trade mark. The rights of the Complainant for the purpose of the first part of the UDRP's three-part cumulative test are therefore established.

For its part, the Respondent registered the disputed domain name <zadigettvoltaire.com> by omitting the hyphens in the Complainant's domain name and adding a spurious letter "t" after the conjunctive. These adjustments make the disputed domain name no longer quite identical to the Complainant's domain name but closely and confusingly similar to the Complainant's distinctive mark and they do so without any legitimate reason, so satisfying the second part of the UDRP's cumulative test.

The Panel in this uncontested case again takes note of the only minor variation of the disputed domain name from the Complainant's domain name in finding self-evident intention of registration of the disputed domain name in order to imitate the Complainant's distinctive brand. There is also evidence, in the form of a parking page, of the Respondent's having obtained server capacity to host web content. The Panel thus has no difficulty in finding bad faith. The last part of the UDRP's cumulative test is hence satisfied.

The Panel accordingly orders transfer of the disputed domain name to the Complainant.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **ZADIGETTVOLTAIRE.COM**: Transferred

PANELLISTS

Name	**Kevin J. Madders**

DATE OF PANEL DECISION 2020-11-20

Publish the Decision