

Decision for dispute CAC-UDRP-104591

Case number	CAC-UDRP-104591
Time of filing	2022-05-17 09:30:23
Domain names	zadigvoltaire-store.com

Case administrator

Organization	Denisa Bilík (CAC) (Case admin)
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Complainant

Organization	ZV HOLDING
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Complainant representative

Organization	NAMESHIELD S.A.S.
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Respondent

Name	(Chang Zhao)
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OTHER LEGAL PROCEEDINGS

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

IDENTIFICATION OF RIGHTS

The Complainant is the owner of the international trademark registration No. 907298 bearing “ZADIG & VOLTAIRE”.

Furthermore, the Complainant is the owner of several domain names, such as <zadig-et-voltaire.com> and uses its official website since 2002.

FACTUAL BACKGROUND

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

The Complainant contends that the disputed domain name is confusingly similar to its trademark ZADIG & VOLTAIRE®. The Respondent's website (www. zadigvoltaire-store.com) reproduces the Complainant's logo on the main page. Given the distinctiveness of the Complainant's trademarks and reputation, it can be stated that the Respondent has registered the disputed domain name with full knowledge of the Complainant's trademark. Given the distinctiveness of the Complainant's trademarks and reputation, it is reasonable to infer that the Respondent has registered the domain name with full knowledge of the Complainant's trademarks.

The Complainant finds that Respondent registered and uses the disputed domain name in bad faith to create confusion with Complainant's trademarks for commercial gain by using the confusingly similar domain name to resolve to website offering counterfeit or unauthorized versions of Complainant's products in direct competition with the Complainant's products. Using a confusingly similar domain name to trade upon the goodwill of a complainant can evince bad faith under Policy paragraph 4(b) (iv).

PARTIES CONTENTIONS

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

I.

As the Respondent did not file an administratively compliant Response, pursuant to paragraph 14(b) of the Rules, the Panel may draw such inferences therefrom as it considers appropriate. Thus, the Panel accepts the contentions of the Complainant as admitted by the Respondent.

II.

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is identical or confusingly similar to the Complainant's trademarks (within the meaning of paragraph 4(a)(i) of the Policy).

The Panel agrees with the Complainant that the disputed domain name is confusingly similar to the Complainant's trademarks. The disputed domain name incorporates the trademark "ZADIG & VOLTAIRE" except for the "&". However, this does not change the overall impression of confusing similarity. The website users understand that the website seems to link to a site of "Zadig" and (or plus) "Voltaire", which is clearly the brand of the Complainant.

The addition of the generic term "shop" is in direct relation with market sector the Complainant is active in. It indicates that the Complainant's products can be bought via such website, which is apparently not the case. Further, the top-level domain ".com" is to be neglected in this assessment.

III.

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).

No arguments, why the Respondent could have own rights or legitimate interests in the disputed domain name are at hand. To

the full satisfaction of the Panel the Complainant has shown that no case as listed in paragraph 5 of the UDRP Rules is relevant in this case. In particular, the Respondent is not using the disputed domain name in connection with a bona fide offering of goods or services as he is gaining revenue from offering counterfeit products of the Complainant's products (as the Complainant has undisputedly maintained).

Further, the Respondent is not commonly known by the disputed domain name. Therefore, the Panel accepts the contentions of the Complainant that the Respondent has no such rights or legitimate interests in the disputed domain name.

IV.

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name to have been registered and is being used in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy).

The timing of the registration of the disputed domain name indicates Respondent's bad faith in registering such domain name, as, at that time, the Complainant's trademark "ZADIG & VOLTAIRE" was already known and protected in several countries. The Panel has no reason to disbelieve the Complainant, when it argues that the Respondent knew the Complainant and its activities at the time of registration and sought to hinder the Complainant from registering the domain name itself and/or intentionally attempted to attract, for commercial gain, Internet users to his web site or other online location, by creating a likelihood of confusion with the Complainant's trademark.

There is no evidence that the Respondent has registered the disputed domain name freely and without reference to the Complainant's trademarks. This is emphasized by the addition of the word "shop" in the disputed domain name, which indicates that the Respondent was well aware of the brand and trademark of the Complainant.

According to paragraph 4(b)(i) of the Policy it shall also be seen as evidence for bad faith use if the Respondent registered the domain name in order to prevent the owner of the trademark from reflecting such mark in a corresponding domain name.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

- 1. ZADIGVOLTAIRE-STORE.COM: Transferred

PANELLISTS

Name	Dominik Eickemeier
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DATE OF PANEL DECISION	2022-06-14
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Publish the Decision