

Decision for dispute CAC-UDRP-104828

Case number CAC-UDRP-104828

Time of filing 2022-09-02 09:07:27

Domain names zadig-voltaires.com

Case administrator

Organization Iveta Špiclová (Czech Arbitration Court) (Case admin)

Complainant

Organization Z&V

Complainant representative

Organization NAMESHIELD S.A.S.

Respondent

Name Jian Li

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

Z&V (the Complainant), operating under the brand ZADIG & VOLTAIRE, is a French company in the fashion industry. Established in 1997 by Thierry Gillier, the brand ZADIG & VOLTAIRE stands for ready-to-wear fashion, accessories and perfumes.

The Complainant is the owner of several trademarks "ZADIG & VOLTAIRE", such as:

- The European trademark ZADIG & VOLTAIRE® n°005014171 registered since March 17, 2006;
- The international trademark ZADIG & VOLTAIRE® n°907298 registered on September 15, 2006.

The Complainant also owns an important domain names portfolio comprising the same distinctive wording ZADIG & VOLTAIRE®, such as the domain name <zadig-et-voltaire.com> registered and used for its official website since May 16, 2002.

FACTUAL BACKGROUND

Z&V (the Complainant), operating under the brand ZADIG & VOLTAIRE, is a French company in the fashion industry. Established in 1997 by Thierry Gillier, the brand ZADIG & VOLTAIRE stands for ready-to-wear fashion, accessories and perfumes.

The Complainant is the owner of several trademarks "ZADIG & VOLTAIRE". The Complainant also owns an important domain names portfolio comprising the same distinctive wording ZADIG & VOLTAIRE®, such as the domain name <zadig-et-voltaire.com> registered and used for its official website since May 16, 2002.

The disputed domain name <zadig-voltaires.com> was registered on August 25, 2022 and redirects to a website purporting to be an online store selling the Complainant's ZADIG & VOLTAIRE products at discounted prices.

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

1. The disputed domain name is identical or confusingly similar to a trademark or service mark.

The Complainant contends that the disputed domain name <zadig-voltaires.com> is confusingly similar to the Complainant's trademark "ZADIG & VOLTAIRE". Z&V (the Complainant), operating under the brand ZADIG & VOLTAIRE, is a French company in the fashion industry. Established in 1997 by Thierry Gillier, the brand ZADIG & VOLTAIRE stands for ready-to-wear fashion, accessories and perfumes. The Complainant is the owner of several trademarks "ZADIG & VOLTAIRE" including the European trademark and the international trademark. The Complainant also owns an important domain names portfolio comprising the same distinctive wording ZADIG & VOLTAIRE®, such as the domain name <zadig-et-voltaire.com> registered and used for its official website since May 16, 2002.

The disputed domain name <zadig-voltaires.com> (hereinafter referred to as the "Disputed Domain Name") was registered on August 25, 2022 according to the WHOIS records and registrar disclosures. It incorporates the identifiable part of Complainant's trademark ZADIG & VOLTAIRE without the "&", with addition of a hyphen and the letter "S" combination. These minor alterations are not sufficient to distinguish the disputed domain name from the Complainant's trademark. The addition of the gTLD ".com" does not add any distinctiveness to the Disputed Domain Name.

The Panel therefore concludes that the Disputed Domain Name is confusingly similar to a trademark in which the Complainants have rights within the meaning of paragraph 4(a)(i) of the Policy.

2. The Respondent to have no rights or legitimate interests in respect of the Disputed Domain Name.

Although the Respondent did not file an administratively compliant (or any) response, the Complainant is still 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. If the respondent fails to do so, the complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy.

The Complainant in the present case has not licensed or authorized the Respondent to register or use the trademark or the Disputed Domain Name. There is no evidence that the Respondent is known by the Disputed Domain Name or owns any corresponding registered trademarks including the terms "ZADIG & VOLTAIRE", "Z&V" and/or "ZADIG-VOLTAIRES".

The organization of the Respondent, "Jian Li", also has no connection with the Complainants' brand. The Complainants did not grant any license or authorization to the Respondent to register or use the Disputed Domain Name, nor the use of the Complainants' trademark on pages of the disputed websites.

Furthermore, the Disputed Domain Name is currently used to host the website to impersonate the Complainant and attempt to mislead consumers into thinking that the goods purportedly offered for sale on the website originate from Complainant. By directing to its own website goods purportedly offered by the Complainant, the Respondent seems to be intentionally attempting to attract, for commercial gain, internet users to his websites, by creating a likelihood of confusion.

On the basis of preponderance of evidence, and in the absence of any evidence to the contrary or any administratively compliant response being put forward by the Respondent, the Panel finds that the Respondent does not have rights or legitimate interests in the Disputed Domain Name within the meaning of paragraph 4(a)(ii) of the Policy.

3. The Disputed Domain Name has been registered and is being used in bad faith.

By trying to establish the bad faith element of paragraph 4(a) of the Policy, the Complainant has primarily attempted to rely on paragraph 4(a)(iii) and 4(b) of the Policy.

Registration of the disputed domain name in bad faith – As far as registration goes, UDRP panels have consistently held that the mere registration of a domain name that is confusingly similar to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. Complainant's trademark registrations predate the registration of the Disputed Domain Name. The fact that the Complainant's trademark is a well-known and that the Respondent makes references to the Complainant's products and trademarks in the website implied that the Respondent had prior knowledge of the Complainant's trademark at the time of registration of the Disputed Domain Name. It is reasonable to infer that the registrant registered the disputed domain name with the knowledge of the Complainant's trademark and/or brand influence.

Use of the Disputed Domain Name in Bad Faith – Currently, the Disputed Domain Name is currently used to host the website to impersonate the Complainant and attempt to mislead consumers into thinking that the goods purportedly offered for sale on the website originate from Complainant. The Respondent could have registered the Disputed Domain Name to divert internet users for illegitimate commercial gains, by creating a likelihood of confusion: an internet user could assume that the website corresponding to <zadig-voltaires.com> is sponsored by, affiliated with the Complainant. According to paragraph 4(b)(iv) of the Policy, "by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your web site 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 your web site or location or of a product or service on your web site or location", if found by the Panel, shall be considered evidence of registration and use of the domain name in bad faith.

Therefore, in the absence of any evidence to the contrary (or any administratively compliant response) being put forward by the Respondent, the Panel determines that the Complainants have failed to provide that Disputed Domain Name was registered and is being used in bad faith within the meaning of paragraph 4(a)(iii) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **zadig-voltaires.com**: Transferred

PANELLISTS

Name	Carrie Shang
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DATE OF PANEL DECISION 2022-10-03

Publish the Decision
