

## **ADMINISTRATIVE PANEL DECISION**

**Bulgari S.p.A. v. Clara C Clark Clara, Solution Realty**  
**Case No. D2024-1217**

### **1. The Parties**

The Complainant is Bulgari S.p.A., Italy, represented by SafeNames Ltd., United Kingdom.

The Respondent is Clara C Clark Clara, Solution Realty, United States of America.

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

The disputed domain name <bvlgari2.vip> is registered with Gname.com Pte. Ltd. (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on March 20, 2024. On March 21, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name (hereinafter "the disputed domain name"). On March 22, 2024, 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 (Redacted for Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 25, 2024, 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 March 26, 2024.

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 March 28, 2024. In accordance with the Rules, paragraph 5, the due date for Response was April 17, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on April 24, 2024.

The Center appointed Archibald Findlay SC as the sole panelist in this matter on April 29, 2024. 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 Bulgari S.p.A. is a world-renowned manufacturer of luxury goods, including but not limited to precious stones, jewelry, watches, fragrances and skincare products. The company was founded in 1884 in Rome, Italy by Sotirio Voulgaris. Bulgari S.p.A. is headquartered in Rome, Italy; it opened its first international locations in New York City, Paris, Geneva and Monte Carlo in the 1970s. Today, the Complainant has around 300 retail locations worldwide.

The BULGARI name derives from the founder's name ("Voulgaris"). The Complainant's trademark is both written as BVLGARI in the classic Latin alphabet and BULGARI in the modern alphabet. The Complainant submits that the terms BULGARI and BVLGARI are often used synonymously, but are traditionally intended for the following purposes: BULGARI is used in relation to the company name (Bulgari S.p.A), whilst the term BVLGARI relates to the brand name.

The Complainant registered the domain name of its official website, <bulgari.com>, on February 17, 1998, and has had a strong web presence since that date. The Complainant's official website enables users to access all product lines and Internet users are also able to locate the Complainant's stores and authorized retailers worldwide from this site.

The Complainant's products are renowned for having a distinctive style that celebrates Bulgari S.p.A.'s rich Roman history. The Complainant has also operated several hotels since 2001, which was the result of a joint venture between Bulgari S.p.A and the Luxury Group, a division of Marriot International that also manages Ritz-Carlton hotels. The Complainant's hotels can be found in major locations across the globe such as London, Beijing, Milan, Bali, Dubai, Paris, Moscow, and Rome and has resorts scheduled to open in the future.

As part of their effort to protect their Intellectual Property, the Complainant, its affiliates, subsidiaries and associated companies own trademarks for the terms BVLGARI and BULGARI within numerous jurisdictions including but not limited to the following:

Trademark	Country	Registration Number	Registration Date	Classes Covered
BULGARI	Australia	338663	October 5, 1979	14
BULGARI	United States of America	1184684	January 5, 1982	14
BULGARI	International	452694	May 15, 1980	11, 14, 20, 21
BULGARI	Mexico	503494	September 12, 1995	25
BVLGARI	United States of America	1694380	June 16, 1992	18
BVLGARI	Canada	TMA312178	March 14, 1986	14, 21, 26
BVLGARI	International	494237	July 5, 1985	3, 8, 11, 14, 16, 18, 20, 21, 25, 34
BVLGARI	Italy	984147	November 18, 2005	25, 34, 38, 41
BVLGARI	European Union	7138101	June 3, 2009	35, 36, 41, 43

The disputed domain name was registered on September 6, 2023, and previously resolved to a parking page to login for apparent varied online shopping sites.

## **5. Parties' Contentions**

### **A. Complainant**

The Complainant submits that it is the owner of registered trademarks for BULGARI and BVLGARI and highlights the goodwill and recognition that has been attained under the name BULGARI and BVLGARI, which is a distinctive identifier associated with the Complainant's goods and services.

The Complainant avers that the Respondent lacks a right or legitimate interest in the disputed domain name. To the best of the Complainant's knowledge, the Respondent does not have any trademark rights to the terms BVLGARI or BULGARI. There is also no evidence that the Respondent retains any unregistered trademarks for the terms BVLGARI or BULGARI. Neither has the Respondent received any license from the Complainant to use domain names featuring the BVLGARI or BULGARI trademark.

The Complainant submits that the Respondent has not used, nor prepared to use, the disputed domain name in connection with a bona fide offering of goods or services. The disputed domain name has been previously used to host a site that encouraged Internet users to insert their mobile number and password in an alleged registration page titled "Shopee" (Annex 9 to the Complaint).

It submits that the Respondent used the Complainant's BVLGARI mark to divert traffic to its own site in an attempt to collect sensitive data from the Complainant's customers who engage with the landing page in the belief it is somehow affiliated with the Complainant and states that there was no disclaimer contained in the resolving site accounting for its connection (or lack thereof) to the Complainant.

The Complainant asserts that, to the best of its knowledge, the Respondent is not commonly known by the distinctive term BVLGARI or BULGARI. Therefore, there is no plausible reason for the registration and use of the disputed domain name, other than the motive of taking advantage of the goodwill and reputation attached to the BVLGARI and BULGARI marks.

The Complainant further contends that its trademarks BVLGARI and BULGARI are distinctive terms used to represent the Complainant's goods and services. There is no generic or common usage for the terms BVLGARI or BULGARI. Nor has any evidence come to light since the disputed domain name's registration that the Respondent has intended to use the disputed domain name in a way other than to target the Complainant.

Accordingly, the Complainant has set out, in detail, contentions supported by previous WIPO UDRP decisions as to why:

- (a) the disputed domain name is identical or confusingly similar to the trademark or service marks owned by the Complainant;
- (b) the Respondent has no rights or legitimate interests in respect of the domain name; and
- (c) the disputed domain name was registered and is being used in bad faith.

The Complainant submits that it has presented a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name for the purposes of paragraph 4(a)(ii) of the Policy and that the burden of production now shifts to the Respondent to show that it has rights or legitimate interests in the disputed domain name.

The Complainant further contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

### **B. Respondent**

As stated above, the Respondent did not reply to the Complainant's contentions and by such failure is in default in terms of paragraphs 5(e) and 14 of the Rules and paragraph 8(c) of the Supplemental Rules, with the result that the Panel must now deal with the matter on the Complainant's version.

## 6. Discussion and Findings

### A. Substantive Elements of the Policy

Paragraph 15(a) of the Rules requires that:

“A Panel shall decide a complaint on the basis of the statements and documents submitted in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.”

Paragraph 4(a) of the Policy directs that the complainant must prove each of the following:

- (i) That the disputed domain name registered by the Respondent is identical or confusingly similar to a trademark or a service mark in which the Complainant has rights.
- (ii) That the Respondent has no rights or legitimate interests in respect of the disputed domain name.
- (iii) That the disputed domain name has been registered and is being used in bad faith.

Paragraph 4(b) of the Policy sets out four illustrative circumstances or acts which would, for the purposes of paragraph 4(a)(iii) above, be evidence of the registration of a domain name in bad faith. These are non-exclusive.

Similarly, paragraph 4(c) of the Policy sets out three illustrative circumstances which would demonstrate the Respondent's rights or legitimate interests in the disputed domain name for the purpose of paragraph 4(a)(ii).

### B. Effect of Default

Notwithstanding the fact that a respondent may be in default, a complainant bears the burden of proof in respect of each of the three main elements in terms of paragraph 4(a) of the Policy. Such default does not, per se, entitle a complainant to a finding in its favor by reason thereof, as failure by the complainant to discharge the burden of proof will still result in the complaint being denied (*M. Corentin Benoit Thiercelin v. CyberDeal, Inc.*, WIPO Case No. [D2010-0941](#)). It follows that such default does not, of itself, constitute an acceptance or an admission of any of the averments or contentions put forward, or of the supporting evidence put up (*Standard Innovation Corporation v. Shopintimates USA*, WIPO Case No. [D2011-0049](#)). The Panel is nevertheless not bound to accept all that has been put up by the Complainant but must evaluate it as it stands (*B Brooke Bollea, a.k.a Brooke Hogan v. Robert McGowan*, WIPO Case No. [D2004-0383](#); *San Lameer (Pty) Ltd and Sanlam Ltd v. Atlantic Internet Services (Pty) Ltd*, WIPO Case No. [D2010-0551](#)).

However, paragraph 14(b) of the Rules provides that, in the absence of exceptional circumstances, a panel shall draw such inference as it considers appropriate from the failure of a party to comply with a requirement of the Rules (*Allianz, Compañía de Seguros y Reaseguros S.A. v. John Michael*, WIPO Case No. [D2009-0942](#)).

In the present instance, the Panel finds that there are no exceptional circumstances for the failure of the Respondent to submit a Response, particularly in the light of the fact that the Center wrote to the Respondent when dealing with procedural matters and advising the Respondent of time limits.

From this, the Panel considers that it may accept that the Respondent does not deny the facts asserted and contentions made by the Complainant based on such facts (*Reuters Limited v. Global Net 2000, Inc.*, WIPO Case No. [D2000-0441](#); *LCIA (London Court of International Arbitration) v. Wellsbuck Corporation*, WIPO Case No. [D2005-0084](#); *Ross-Simons, Inc. v. Domain.Contact*, WIPO Case No. [D2003-0994](#); *Standard Innovation Corporation v. Shop Intimates USA, Supra*; *VKR Holding A/s v. Above.com Domain Privacy/Host Master, Transure Enterprise Ltd.*, WIPO Case No. [D2012-0040](#); *Knorr-Bremse AG. v. WhoisGuard Protected, WhoisGuard, Inc. / Mosco Binzu*, WIPO Case No. [D2019-0616](#)).

Thus, in the view of the Panel, it may accept asserted facts that are not unreasonable, with the consequence that the Respondent will be subjected to inferences that flow naturally from the information provided by the Complainant (*Reuters Limited v. Global Net 2000, Inc, Supra*; *RX America, LLC. v. Matthew Smith*, WIPO Case No. [D2005-0540](#); *Allianz, Compañía de Seguros y Reaseguros S.A. v. John Michael, Supra*; *Standard Innovation Corporation v. Shopintimates USA, Supra*; *VKR Holding A/s v. Above.com Domain Privacy/Host Master, Transure Enterprise Ltd., Supra*; *Groupe Auchan v. Anirban Mitra* WIPO Case No. [D2012-0412](#); *Barclays Bank PLC v. Miami Investment Brokers Inc*, WIPO Case No. [D2012-1213](#)).

### C. Domain Name is Identical or Confusingly Similar

The Complainant put up an extensive list of its registered trademarks and the domain names which it owns in many countries and has cited several previous URDP decisions which it contends that the BVLGARI and BULGARI trademark is world famous. For the purposes of the Policy, the Panel finds the Complainant has rights in the trademarks BVLGARI and BULGARI.

The Complainant submitted that the domain name <bvlhari2.vip> is confusingly similar to the Complainant's BVLGARI mark and that the issue of "identical or confusingly similar" for the purposes of paragraph 4(a)(i) should be adjudicated upon by utilizing a side-by-side comparison to decide "whether the alphanumeric string comprising the challenged domain name is identical ... or sufficiently approximates [the trademark]". (See *Advance Magazine Publishers Inc. d/b/a Condé Nast Publications v. MSA, Inc. and Moniker Privacy Services*, WIPO Case No. [D2007-1743](#).)

The fact that the word mark BVLGARI has been incorporated entirely into the disputed domain name is sufficient to establish that it is identical or confusingly similar to the Complainant's registered mark (*Quixtar Investments, Inc. v. Dennis Hoffman*, WIPO Case No. [D2000-0253](#); *Universal City Studios, Inc. v. David Burns and Adam-12 Dot Com*, WIPO Case No. [D2001-0784](#); *Lilly ICOS LLC v. John Hopking / Neo net Ltd.*, WIPO Case No. [D2005-0694](#); *Société Des Produits Nestlé SA v. Mustafa Yakin / Moniker Privacy Services*, WIPO Case No. [D2008-0016](#); *LEGO Juris A/S v. Registration Private, Domains By Proxy, LLC / Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2021-4146](#)).

The addition of the number "2" does not prevent a finding of confusing similarity between the disputed domain name and the Complainant's trademark. The Complainant's BVLGARI mark is the dominant and only distinctive element in the disputed domain name. The addition of the number "2" does not prevent a finding of confusing similarity between the Complainant's BVLGARI mark and the disputed domain name. (*Dr. Ing. h.c. F. Porsche AG v. Rojeen Rayaneh*, WIPO Case No. [D2004-0488](#) and particularly *Carvana, LLC v. Domains By Proxy, LLC. / Fundacion Comercio Electronico, Carolina Rodrigues*, WIPO Case No. [D2022-1099](#)).

The generic top-level domain ("gTLD") ".vip" featured in the disputed domain name is viewed as a standard registration requirement and not an element that generally would be taken into consideration when evaluating the identity and similarity of the Complainant's trademark and the domain name (*Magnum Piering, Inc. v. The Mudjacks and Garwood S. Wilson, Sr.*, WIPO Case No. [D2000-1525](#). *Rollerblade, Inc. v. Chris McCrady*, WIPO Case No. [D2000-0429](#); *Phenomenia AG v. Meta Verzeichnis Com*, WIPO Case No. [D2001-0374](#); *Qantas Airways Limited v. Minh Huynh*, WIPO Case No. [D2008-1382](#); *L'Oréal, Lancôme Parfums Et Beauté & Cie v. Jack Yang*, WIPO Case No. [D2011-1627](#); *Fry's Electronics, Inc v. Whois ID Theft Protection*, WIPO Case No. [D2006-1435](#); *Kabushiki Kaisha Toshiba d/b/a Toshiba Corporation v. Marko Tusla d/b/a/ Toshiba-Club.com*, WIPO Case No. [D2004-1066](#)).

In these circumstances, the Panel has no difficulty in concluding that the Complainant has established the first element in terms of paragraph 4(a)(i) of the Policy.

### D. Rights or Legitimate Interests

Paragraph 4(c) of the Policy sets out three illustrative circumstances as examples which, if established by the Respondent, shall demonstrate its rights to or legitimate interests in the domain name for the purposes of Paragraph 4(a)(ii) of the Policy, namely:

(i) before any notice to the Respondent of the dispute, the use by the Respondent of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with the bona fide offering of goods or services; or

(ii) the Respondent (as an individual, business or other organization) has been commonly known by the domain name, even if the Respondent has acquired no trademark or service mark rights; or

(iii) the Respondent is making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert customers or to target the trademark or service mark at issue.

Although paragraph 4(a)(ii) requires the Complainant to prove that the Respondent has no rights to or legitimate interests in the domain name, once the Complainant establishes a prima facie case that the Respondent has no rights or legitimate interests in the domain name, the burden of production of evidence on this factor shifts to the Respondent to rebut the showing, despite the overall burden of proof remaining upon the Complainant to prove each of the three elements of paragraph 4(a) of the Policy. (*Document Technologies, Inc. v. International Electronic Communications Inc.*, WIPO Case No. [D2000-0270](#); *Universal City Studios, Inc. v. David Burns and Adam-12 Dot Co, Supra*).

Having defaulted, the Respondent has placed itself in a position that it has not produced any evidence to rebut such prima facie case as may have been established by the Complainant, and the enquiry must therefore focus upon what is evidenced by the Complainant in order to determine whether or not it has been so established.

The Complainant contends that it is the sole proprietor of the trademarks BVLGARI and BULGARI and that the Respondent has not been given any permission to register or use any domain name incorporating the trademark of the Complainant.

Apart from there being no authorization on the part of the Complainant, there is no evidence of a relationship or association between the Complainant and the Respondent, whether by license or otherwise, which also militates against the Respondent having rights or legitimate interests in or other entitlement which might fall within that purview (*Sybase, Inc. v. Analytical Systems*, WIPO Case No. [D2004-0360](#)).

In view of the facts and circumstances put up on this ground, which are unchallenged, the Panel is of the view that the Complainant should therefore succeed on this ground as well.

The Panel is therefore satisfied that, in the circumstances, the Complainant has established the second element of the Policy.

#### **E. Registration and Use in Bad Faith**

Paragraph 4(b) of the Policy provides that for the purposes of paragraph 4(a)(iii) of the Policy, the following circumstances, in particular but without limitation, if found by the panel to be present, shall be evidence of the registration and use of a domain name in bad faith:

(i) circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out of pocket costs directly related to the domain name; or

(ii) you have registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct; or

(iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your website 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 website or location or of a product or service on your website or location.

As found by previous UDRP panels such as *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#) and *Bridgestone South Africa Holdings (Pty) Ltd v. Anthony Marcus, Auto Align and Tire CC, and Glen Martin* Case No. [D2023-1359](#); as well as section 3.3 of the [WIPO Overview 3.0](#) it has been concluded that the non-use of a domain name does not prevent a finding of bad faith. Generally, therefore, the non-use of a domain name is considered not to be a bona fide offering of goods or services.

In this instance, it appears that the Respondent has deliberately registered a domain name that is confusingly similar to the distinctive BVLGARI and BULGARI marks. This historical name is not a phrase a trader would legitimately choose unless seeking to create an impression of association with the Complainant.

The implication arising from the disputed domain name, in the mind of a would-be customer, is therefore clearly that it is either of or in some way associated with the Complainant. In turn, in the view of the Panel, leads to the inescapable conclusion that such potential customer is invited to do business with either the Complainant itself or someone authorized on its behalf. That would, by application of paragraph 4(b)(iv) of the Policy, constitute bad faith registration and use. (*Media24 Limited v. Llewellyn Du Randt*, WIPO Case No. [D2009-0699](#); *San Lameer (Pty) Ltd and Sanlam Ltd v. Atlantic Internet Services (Pty) Ltd, Supra*).

The selection of a disputed domain name that is confusingly similar to the Complainant's trademark and the Complainant's domain name, particularly in the absence of any explanation, leads to the conclusion, in the view of the Panel, that the Respondent must have known of the reputation of the Complainant in the market and therefore it selected the disputed domain name in circumstances where it was very well aware of the Complainant's reputation and intended to benefit therefrom (*Deutsche Post AG v. MailMij LLC*, WIPO Case No. [D2003-0128](#); *Barclays Bank PLC v. Miami Investment Brokers Inc.*, WIPO Case No. [D2012-1213](#)), particularly where it is so widely known globally. Moreover, such conduct by the Respondent implies that it intended to suggest to would be customers that it was in some way linked to or associated with the Complainant and thereby solicit business by creating that belief in the mind of consumers.

In particular, the appearance of the disputed domain name resolving to a purported online shopping platform suggests a link or arrangement between the Respondent and the Complainant in relation to such sales as endorsed by the Complainant of the suitability or good quality of the goods. (*Kelley Blue Book Company, Inc. v. Nikolay Golovin aka Buy-movie.net*, WIPO Case No. [D2005-0837](#).)

The Panel is therefore satisfied that the Complainant has established the third element under paragraph 4(a)(iii) 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 <bvlgari2.vip> be transferred to the Complainant.

/Archibald Findlay/

**Archibald Findlay**

Sole Panelist

Date: May 13, 2024