

## **ADMINISTRATIVE PANEL DECISION**

Bulgari S.p.A v. 杨智超 (Zhi Chao Yang)

Case No. D2023-3079

### **1. The Parties**

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

The Respondent is 杨智超 (Zhi Chao Yang), China.

### **2. The Domain Names and Registrars**

The disputed domain names which are the subject of the Complaint are <bvlagri.com>, <bvlari.com>, <bvlfari.com>, <bvlgaari.com>, <bvlgri.com>, <bvlguri.com>, and <bvllgari.com> (the “Disputed Domain Names”). The Disputed Domain Name <bvlagri.com> is registered with Chengdu West Dimension Digital Technology Co., Ltd while the rest of the Disputed Domain Names are registered with Cloud Yuqu LLC (collectively the “Registrars”).

### **3. Procedural History**

The Complaint in English was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 18, 2023. On July 19, 2023, the Center transmitted by email to the Registrars a request for registrar verification in connection with the respective Disputed Domain Names. On July 20, 2023, the Registrars transmitted by email to the Center the verification responses disclosing registrant and contact information for the disputed domain names 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 July 20, 2023 providing the actual registrant and contact information disclosed by the Registrars, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint in English on July 20, 2023.

On July 20, 2023, the Center sent an email in English and Chinese to the Parties regarding the language of the proceeding. The Complainant confirmed its request that English be the language of the proceeding on July 20, 2023. The Respondent did not comment on the language of the proceeding.

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 in English and Chinese of the Complaint, and the proceedings commenced on July 26, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 15, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on August 31, 2023.

The Center appointed Kar Liang Soh as the sole panelist in this matter on September 14, 2023. 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 is an Italian company founded in 1884 and operates in the field of luxury goods and hotels. The Complainant is particularly associated with high-end jewellery and accessories, and has more than 230 retail locations worldwide, including in New York, Paris, Geneva, and Monte Carlo dating back to the 1970s. The Complainant uses the trademarks BVLGARI and BULGARI synonymously in relation to its goods and services, although traditionally BULGARI was intended to be associated with its company name while BVLGARI was intended to be the brand name. BVLGARI is written in the classic Latin alphabet, while BULGARI is written in the modern alphabet. Hereafter, the Panel will use the term "BVLGARI Mark" to refer to both BVLGARI and BULGARI trademark versions.

The BULGARI Mark has been promoted for decades globally on video, billboards and other marketing sources. The Complainant's products have been used by many celebrities at high-profile events such as the Oscars and Premieres. The Complainant started operating hotels and resorts under the BVLGARI Mark since 2001 in collaboration with Marriot International. The Complainant's hotels and resorts are found around the world, including London, Beijing, Milan, Bali, Dubai, Paris, Los Angeles, and Tokyo.

The Complainant and its affiliates own trademark registrations for the BVLGARI Mark, including:

Jurisdiction	Trademark No	Registration Date
Australia	338663	October 5, 1979
China	341625	March 10, 1989
European Union	007138101	June 3, 2009
Singapore	T8405225G	December 30, 1989
International Registration	452694	May 15, 1980

The Complainant is also the holder of the domain name <bulgari.com> and has been operating its official website from this domain name since 1998 which garners over 2 million visits per month from around the world. The website also enables visitors to locate the Complainant's stores and authorized retailers worldwide. An Internet search for the term "Bulgari" will generate a first page listing of the Complainant's products and services. In addition, the Complainant has established social media presence as follows:

Platform	URL	Estimated Followers
Facebook	<a href="https://www.facebook.com/Bulgari">https://www.facebook.com/Bulgari</a>	4.6 million
Twitter	<a href="https://twitter.com/bulgariofficial">https://twitter.com/bulgariofficial</a>	0.8 million
Instagram	<a href="https://www.instagram.com/bulgari/">https://www.instagram.com/bulgari/</a>	13.4 million
Pinterest	<a href="https://www.pinterest.com/bulgari/">https://www.pinterest.com/bulgari/</a>	0.06 million

All the Disputed Domain Names were registered on March 28, 2023 and resolve to wholly English-language parking webpages with links prominently displaying the titles "Bulgari Bracelet", "Bulgari Bracelets" and "Bulgari Ring". The links redirect visitors to other websites which promoted luxury jewellery associated with the BVLGARI Mark and the trademarks of other parties. Some of other these websites displayed online bidding features for luxury jewellery associated with the BVLGARI Mark.

Very limited information about the Respondent. The Respondent appears to be an individual based in China. The Respondent has also been named as the respondent in several successful UDRP complaints against the Respondent registering typographical variants of the respective complainants' trademarks (e.g., *Univar Solutions Inc. v. 杨智超 (Zhi Chao Yang)*, WIPO Case No. [D2023-1704](#)). The Complainant submitted a cease and desist letter on April 25, 2023 via the Registrars but did not receive any response. Attempts by the Center to send the Written Notice to the Respondent's disclosed mailing address in relation to the Disputed Domain Names failed due to the mailing address being invalid.

## 5. Parties' Contentions

### A. Complainant

The Complainant contends that:

- a) the Disputed Domain Names are identical or confusingly similar to the BVLGARI Mark. The Complainant has registered the BVLGARI Mark in various jurisdictions. The Disputed Domain Names are typo variations of the BVLGARI Mark. A domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered confusingly similar;
- b) the Respondent has no rights or legitimate interests in the Disputed Domain Names. There is no evidence that the Respondent is known as BVLGARI. There is no evidence that the Respondent has registered or holds unregistered rights in any trademarks for Bvlgari. The Respondent has not been licensed by the Complainant to use domain names that feature the BVLGARI Mark. The Disputed Domain Names resolve to webpages containing links related to the Complainant's products and competing products and services. The Respondent's use of the Disputed Domain Names to unfairly capitalize upon and take advantage of the similarity with the BVLGARI Mark is not a *bona fide* offering of goods or services. It is clear that the Respondent intends to generate revenue from the Disputed Domain Names and is not making a legitimate noncommercial or fair use of the Disputed Domain Names; and
- c) the Disputed Domain Names were registered and are being used in bad faith. The Complainant's earliest trademark registration for the BVLGARI Mark predates the creation of the Disputed Domain Names by at least 45 years. The Respondent is intentionally using the commercial value and goodwill of the BVLGARI Mark to attract and redirect Internet users to its own websites, and to generate commercial gain. The Respondent has engaged in a pattern of abusive conduct by registering the seven Disputed Domain Names all targeting the BVLGARI Mark, as well as the Respondent's past cybersquatting cases.

### B. Respondent

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

## 6. Discussion and Findings

### 6.1 Preliminary Issue: Language of the Proceeding

The language of the registration agreement of the Disputed Domain Names is Chinese. As such, the default language of the proceeding is Chinese. However, pursuant to the power given to the Panel under paragraph 11(a) of the Rules, the Panel determines that the language of proceeding shall be English. In coming to this decision, the Panel has taken into consideration the following factors:

- a) the Complainant has requested English be adopted as the language of the proceeding;

- b) the Respondent has not objected to the Complainant's request for English to be the language of the proceeding;
- c) the Disputed Domain Names resolve to websites that are wholly in English, demonstrating the Respondent's likely sufficiency of competence in the English language;
- d) the Respondent has chosen not to participate in the proceeding by not filing a Response;
- e) the Complainant has informed that the proceeding in Chinese will result in considerable costs to the Complainant and delay to the proceeding;
- f) the Panel is bilingual in English and Chinese and is well equipped to deal with submissions by the Parties in either language; and
- g) the Complaint has already been submitted in English and no obvious procedural benefit would arise should the Panel insist on Chinese to be the language of the proceeding. On the contrary, doing so would in all likelihood delay the proceeding unnecessarily.

## 6.2 Substantive Issue: Three Elements

To succeed in this proceeding, the Complainant must establish all three limbs of paragraph 4(a) of the Policy on the facts:

- a) the Disputed Domain Names are identical or confusingly similar to a trademark in which the Complainant has rights;
- b) the Respondent has no rights or legitimate interests in the Disputed Domain Names; and
- c) the Disputed Domain Names were registered and are being used in bad faith.

### A. Identical or Confusingly Similar

In view of the various trademark registrations for the BVLGARI Mark, the Panel does not doubt that the Complainant has rights in the BVLGARI Mark. The only practical difference between the BVLGARI Mark and the Disputed Domain Names are as follows:

Disputed Domain Names	Typographical Difference from the BVLGARI Mark
<bvlagri.com>	The transposition of the letters "g" and "a"
<bvlari.com>	The omission of the letter "g"
<bvlfari.com>	The replacement of the letter "g" with "f"
<bvlgaari.com>	The duplication of the letter "a"
<bvlgri.com>	The omission of the letter "a"
<bvlguri.com>	The replacement of the letter "a" with "u"
<bvllgari.com>	The duplication of the letter "l"

In the Panel's view, despite the typographical differences, none of the Disputed Domain Names have succeeded to distinguishing themselves from the BVLGARI Mark. The BVLGARI Mark remains highly recognizable in the Disputed Domain Names and the differences do not prevent a finding of confusing similarity between the Disputed Domain Names and the BVLGARI Mark. Therefore, the Panel holds that the first limb of paragraph 4(a) of the Policy is established.

### B. Rights or Legitimate Interests

The Complainant has affirmed that it has not given the Respondent a licence to register the Disputed Domain Names. Considering that the Complainant only came to know about the Respondent after the verification by the Registrars, it is most inconceivable that the Complainant would have known the Respondent to even consider giving the Respondent any licence or permission to use the BVLGARI Mark in the Disputed Domain Names or at all.

There is no evidence before the Panel to suggest that the Respondent is commonly known by any of the Disputed Domain Names. There is also no evidence before the Panel that the Respondent has any rights by way of trademark registration or otherwise in the Disputed Domain Names. The use of the Disputed Domain Names to resolve to obviously commercially oriented parking webpages do not suggest that the Respondent is making a legitimate noncommercial or fair use of the Disputed Domain Names.

On the balance of probabilities, the Panel determines that the Complainant has made out a *prima facie* case that the Respondent has no rights or legitimate interests in the Disputed Domain Names. The burden of production thereby shifts to the Respondent to show otherwise. In the absence of any Response to rebut the Complainant's *prima facie* case, the Panel finds that the second limb of paragraph 4(a) of the Policy stands.

### **C. Registered and Used in Bad Faith**

In view of the evidence submitted, the Panel is persuaded that the BVLGARI Mark is well known, and certainly known to the Respondent. Despite the Respondent's typographical modification of the BVLGARI Mark in the Disputed Domain Names, all the websites resolved therefrom clearly refer to the BVLGARI Mark in all its non-typographically modified form. The Panel cannot imagine any plausible excuse that the Respondent could devise to deny that the Respondent clearly knew about the BVLGARI Mark.

Therefore, the question is why the Respondent would knowingly register typographical variants of the BVLGARI Mark as the Disputed Domain Names, and to resolve these Disputed Domain Names to webpages with obviously commercially-oriented content. Paragraph 4(b)(iv) of the Policy describes a situation of bad faith registration and use as follows:

“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.”

The prominent links on the websites resolved from the Disputed Domain Names feature the BVLGARI Mark without typographical error. These links redirect visitors to other commercial websites, including purported auction sites for luxury goods under the BVLGARI Mark. The Respondent clearly had commercial gain in mind. The inexorable inference is that the Disputed Domain Names were registered to attract Internet users to the resolved websites by creating a likelihood of confusion with the BVLGARI Marks as to the source, sponsorship, affiliation, or endorsement of these resolved websites. As such, the Panel is of the view that the Disputed Domain Names were registered and are being used in bad faith.

Further, paragraph 4(b)(ii) of the Policy provides another illustration of bad faith registration and use:

“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.”

The Panel is also persuaded that the Complainant's submission that the seven Disputed Domain Names represents a pattern of conduct of preventing the Complainant from reflecting the BVLGARI Mark in their corresponding typographical variants found in the Disputed Domain Names. The pattern of conduct extends beyond the Disputed Domain Names to the other UDRP complaints against the Respondent submitted in the evidence.

In addition, the Respondent's provision of ineffective contact particulars in relation to the registration of the Disputed Domain Names further supports the finding of bad faith.

In the light of the above, the Panel accordingly holds that the third limb of paragraph 4(a) of the Policy is also established.

## 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 Names, <bvlagri.com>, <bvlari.com>, <bvlfari.com>, <bvlgaari.com>, <bvlgri.com>, <bvlguri.com>, and <bvllgari.com>, be transferred to the Complainant.

*/Kar Liang Soh/*

**Kar Liang Soh**

Sole Panelist

Date: October 23, 2023