

## **ADMINISTRATIVE PANEL DECISION**

**Bulgari S.p.A. v. Obschestvo s ogranichennoy otvetstvennostyu  
“MD-AvtoKars”**

**Case No. D2023-3094**

### **1. The Parties**

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

The Respondent is Obschestvo s ogranichennoy otvetstvennostyu “MD-AvtoKars”, Belarus.

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

The disputed domain name <info-bulgari.com> is registered with Reliable Software (the “Registrar”).

### **3. Procedural History**

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on July 18, 2023. On July 19, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 21, 2023, 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 (Data Protect / Customer Data Protect) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 24, 2023, 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 July 25, 2023.

The Registrar also indicated that the language of the registration agreement is Russian. On July 24, 2023, the Center sent an email communication to the Parties in both Russian and English inviting the Complainant to submit satisfactory evidence of an agreement between the Complainant and the Respondent to the effect that the proceedings should be in English; or submit the Complaint translated into Russian; or submit a request for English to be the language of the administrative proceedings. On July 25, 2023, the Complainant filed a request for English to be the language of the administrative proceedings. The Respondent did not comment on the language of the proceedings.

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 in both Russian and English, and the proceedings commenced on August 2, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 22, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on August 28, 2023.

The Center appointed Alissia Shchichka as the sole panelist in this matter on September 20, 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 a company organized under the laws of Italy that is active in the jewelry and luxury goods as well as in the hotel industry. The Complainant has more than 230 retail locations worldwide.

The Complainant owns multiple trademarks for BULGARI and BVLGARI including, but not limited, to the following:

- International trademark BULGARI, registration no. 452694, May 15, 1980 word mark BULGARI,
- European Union Trademark Registration for BVLGARI No. 007138101 registered on June 3, 2009, for services in classes 35, 36, 41, and 43;
- International Trademark Registration for BVLGARI No. 494237 registered on July 5, 1985, for goods in classes 3, 8, 11, 14, 16, 18, 20, 21, 25, and 34;
- International Trademark Registration for BULGARI No. 452694, registered on May 15, 1980, for goods in classes 11, 14, 20, and 21;

In addition, the Complainant operates its official website at the domain name <bulgari.com>, which resolves, since 1998, to the Complainant's main website at "www.bulgari.com", promoting the Complainant's jewelry and other luxury goods as well as the Complainant's hotels worldwide.

The Complainant emphasized the goodwill and recognition that have been achieved under the name BULGARI, which is a distinctive identifier associated with the Complainant's services.

The above trademarks and domain name were registered prior to the registration of the disputed domain name, which was registered on February 4, 2023.

The disputed domain name currently displays an inactive webpage. However, according to the evidence provided by the Complainant, the disputed domain name previously resolved to a webpage that impersonated the Complainant, displayed the Complainant's BVLGARI trademark and advertised one of their diamond ring products.

#### **5. Parties' Contentions**

##### **A. Complainant**

In summary, the Complainant made the following submissions:

The Complainant contends that the disputed domain name is confusingly similar to the Complainant's BULGARI and BVLGARI trademark. To this end, such underlines that it owns registered trademarks for BULGARI and BVLGARI and that there is a goodwill and recognition attained under the name BULGARI/BVLGARI, which is a distinct identifier associated with the Complainant's goods and services.

The Complainant states that the disputed domain name is confusingly similar to its trademark BULGARI, as it encompasses the BULGARI mark in its entirety preceded by the term 'info' and the character '-'. The Complainant further contends that the addition of other terms is not sufficient to alleviate the confusing similarity between the Complainant's BULGARI mark and the disputed domain name.

In respect of the generic Top-Level Domain ("gTLD") ".com", which forms part of the disputed domain name, the Complainant requests that the Panel disregard it under the first element as it is a standard registration requirement.

The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name. The Respondent is not commonly known by the disputed domain name, has not used nor prepared to use the disputed domain name in connection with a *bona fide* offering of goods or services, and has not been authorized, licensed, or otherwise permitted by the Complainant to register and/or use the disputed domain name. The Complainant further submits that the disputed domain name resolved to a webpage that impersonated the Complainant and advertised one of their diamond ring products, using the Complainant's logo and duplicating copyrighted pictures and content from the Complainant's website. This usage cannot be considered a *bona fide* offering of goods or services.

Finally, the Complainant alleges that the registration and use of the Disputed Domain Name was, and currently is, in bad faith, contrary to the Policy and Rules.

## **B. Respondent**

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

## **6. Discussion and Findings**

### **6.1 Language of the Proceedings**

The language of the Registration Agreement for the disputed domain name is Russian. Pursuant to the Rules, paragraph 11(a), in the absence of an agreement between the parties, or unless specified otherwise in the registration agreement, the language of the administrative proceeding shall be the language of the registration agreement.

In exercising its discretion to use a language other than that of the registration agreement, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both parties, taking into account all relevant circumstances of the case, including matters such as the parties' ability to understand and use the proposed language, time and costs (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.5.1).

The Complaint was submitted in English. The Complainant requested that English be the language of the proceedings for several reasons. These include the presumption that the Respondent is proficient in English, whereas the Complainant would incur unreasonable effort and costs to provide the Complaint in Russian. Indeed, the website associated with the disputed domain name had previously displayed several English words and phrases, suggesting the Respondent's comprehension of English. Moreover, it's worth noting that the disputed domain name is in Latin script rather than Cyrillic script.

The Center has sent all its communications to the Respondent in both English and Russian, and has invited the Respondent to express its views on the language of the proceeding. The Respondent has not submitted a response or any objections to the Complainants' request that the proceedings be conducted in English.

Having considered all the matters above, the Panel considers that the Respondent would not be disadvantaged if the language of the proceeding is English, and that using the English language in this proceeding would be fair and efficient. Therefore, the Panel determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English.

## 6.2. Substantive Issues

Under paragraph 4(a) of the Policy, the Complainant carries the burden of proving:

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

The Respondent's default in the case at hand does not automatically result in a decision in favor of the Complainant, however, paragraph 5(f) of the Rules provides that if the Respondent does not submit a response, in the absence of exceptional circumstances, the Panel shall decide the dispute solely based upon the Complaint.

Further, according to paragraph 14(b) of the Rules, the Panel may draw such inferences from the Respondent's failure to submit a response as it considers appropriate.

### A. Identical or Confusingly Similar

Ownership of a trademark registration is generally sufficient evidence that a complainant has the requisite rights in a trademark for purposes of paragraph 4(a)(i) of the Policy. See [WIPO Overview 3.0](#), section 1.2.1.

The Complainant has provided evidence of its rights in the BULGARI and BVLGARI trademarks, as noted above. The Complainant has therefore proven that it has the requisite rights in the BULGARI and BVLGARI trademarks.

With the Complainant's rights in the BULGARI trademark established, the remaining question under the first element of the Policy is whether the disputed domain name, typically disregarding the TLD in which it is registered (in this case, ".com"), is identical or confusingly similar to the Complainant's trademark.

The BULGARI trademark is recognizable in the disputed domain name. In particular, the domain name's inclusion of Complainant's trademark BULGARI in its entirety, with the addition of the term "info" and a hyphen does not prevent a finding of confusing similarity between the disputed domain name and the BULGARI trademark. See [WIPO Overview 3.0](#), section 1.8.

Thus, the Panel finds that the Complainant has satisfied the first element of the Policy.

### B. Rights or Legitimate Interests

The second element the Complainant must prove is that the Respondent has no rights or legitimate interests in the disputed domain name.

Regarding the second element of the Policy, section 2.1 of [WIPO Overview 3.0](#) states,

"where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element".

Once the Complainant's burden of making a *prima facie* case is met, the burden of production shifts to the Respondent to demonstrate its rights or legitimate interests in the disputed domain name (though the burden of proof remains on the Complainant at all times).

If the Respondent does not satisfy its burden of coming forward with some evidence to rebut the Complainant's *prima facie* case, or if the Respondent fails to file a response at all, the Complainant's *prima facie* case will be sufficient to meet its burden of demonstrating that the Respondent has no rights or legitimate interests in the disputed domain name.

From the record in this case, it is evident that the Respondent was, and is, aware of the Complainant and its BULGARI and BVLGARI trademarks, and does not have any rights or legitimate interests in the disputed domain name. The Complainant has confirmed that the Respondent is not affiliated with the Complainant, or otherwise authorized or licensed to use the BULGARI and BVLGARI trademarks or to seek registration of any domain name incorporating the trademarks. The Respondent is also not known to be associated with the BULGARI and BVLGARI trademarks, and there is no evidence showing that the Respondent has been commonly known by the disputed domain name.

In addition, the Respondent has not used the disputed domain name in connection with a *bona fide* offering of goods or services or a legitimate noncommercial or fair use.

Currently, the disputed domain name merely resolves to inactive page. Before, as the Complainant has demonstrated on record, the disputed domain name resolved to a webpage that impersonated the Complainant, feature its BVLGARI trademark and advertised its products. None of such use constitutes a *bona fide* offering of goods or services or a legitimate noncommercial or fair use and cannot under the circumstances confer on the Respondent any rights or legitimate interests in the disputed domain name. See, e.g. *Capitec Bank Limited v. Rakesh Gajjar*, WIPO Case No. [D2019-0609](#).

Moreover, the nature of the disputed domain name is inherently misleading as it effectively impersonates or suggests sponsorship or endorsement by the trademark owner. See [WIPO Overview 3.0](#), section 2.5.1.

Accordingly, the Complainant has provided evidence supporting its *prima facie* claim that the Respondent lacks any rights or legitimate interests in the disputed domain name. The Respondent has failed to produce countervailing evidence of any rights or legitimate interests in the disputed domain name.

Therefore, the Panel concludes that the Respondent does not have any rights or legitimate interests in the disputed domain name and the Complainant has met its burden under paragraph 4(a)(ii) of the Policy.

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

The third element of paragraph 4(a) of the Policy requires that the Complainant demonstrate that the Respondent registered and is using the disputed domain name in bad faith.

On the issue of registration, the Panel notes that the Complainant's BULGARI and BVLGARI trademarks substantially predate the Respondent's registration of the disputed domain name. The Complainant is also well established and known. Indeed, the record shows that the Complainant's BULGARI and BVLGARI trademarks and related products and services are widely known and recognized. Therefore, the Respondent knew or should have known the Complainant's trademark at the time of registering the disputed domain name. See [WIPO Overview 3.0](#), section 3.2.2.

Further, the mere registration of the domain name that is confusingly similar to the Complainant's widely-known trademark by the Respondent, who is unaffiliated with the Complainant, can by itself create a presumption of bad faith. See [WIPO Overview 3.0](#), section 3.1.4.

Moreover, the Respondent's knowledge of the Complainant and its trademarks can be readily inferred from the Respondent's use of the Complainant's mark, logo and copyrighted images on the website the disputed domain name previously resolved to that impersonated the Complainant and advertised the Complainant's product.

In the Panel's view, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement of its website or of the products on its website. Under paragraph 4(b)(iv) of the Policy, this circumstance shall be evidence of the registration and use of a domain name in bad faith (see [WIPO Overview 3.0](#), section 3.1.4).

On the issue of use, the Complainant's evidence is that the disputed domain name is currently inactive and unconnected with any *bona fide* supply of goods or services by the Respondent. Previous UDRP panels have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding (see [WIPO Overview 3.0](#), section 3.3).

The Panel finds that passive holding of the disputed domain name does not, in the circumstances of this case, prevent a finding of bad faith, given: (i) the degree of distinctiveness or reputation of the Complainant's mark, (ii) the failure of the Respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, and (iii) the prior use and implausibility of any good faith use to which the disputed domain name may be put.

In the absence of any evidence to contend against the Complainant's evidence and claims, this Panel accepts the Complainant's evidence and finds that the Respondent has registered and used the disputed domain name, without the Complainant's consent or authorization, for the likely purpose of capitalizing on the reputation of the trademark to target the Complainant's rights.

Accordingly, the Panel finds that the Complainant has satisfied the requirements of 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 <info-bulgari.com> be transferred to the Complainant.

*/Alissia Shchichka/*

**Alissia Shchichka**

Sole Panelist

Date: September 22, 2023