

## ADMINISTRATIVE PANEL DECISION

Z&V v. Charles Bennett, Kayleigh May, Amelia Field, Abigail Hurst  
Case No. D2023-3663

### 1. The Parties

The Complainant is Z&V, France, represented by Nameshield, France.

The Respondents are Charles Bennett; Kayleigh May; Amelia Field; and Abigail Hurst, all located in Italy.

### 2. The Domain Names and Registrar

The disputed domain names <zadigandvoltairehungary.com>, <zadigetvoltaireargentina.com>, <zadigetvoltaireaustralia.com>, <zadigetvoltairebelgique.com>, <zadigetvoltairebrasil.com>, <zadigetvoltairecanada.com>, <zadigetvoltairechile.com>, <zadigetvoltairecolombia.com>, <zadigetvoltairecz.com>, <zadigetvoltairedanmark.com>, <zadigetvoltairedeutschland.com>, <zadigetvoltaireeesti.com>, <zadigetvoltairefrance.com>, <zadigetvoltairegreece.com>, <zadigetvoltairehrvatska.com>, <zadigetvoltaireireland.com>, <zadigetvoltaireisrael.com>, <zadigetvoltairejapan.com>, <zadigetvoltairekuwait.com>, <zadigetvoltairelatvija.com>, <zadigetvoltairelietuva.com>, <zadigetvoltairemexico.com>, <zadigetvoltairenederland.com>, <zadigetvoltairenorge.com>, <zadigetvoltairenz.com>, <zadigetvoltairepolska.com>, <zadigetvoltaireportugal.com>, <zadigetvoltaireschweiz.com>, <zadigetvoltairesk.com>, <zadigetvoltaireslovenija.com>, <zadigetvoltairesuisse.com>, <zadigetvoltairesverige.com>, <zadigetvoltaireuae.com>, <zadigetvoltaireuruguay.com>, <zadigetvoltaireza.com>, <zadigvoltairebulgaria.com>, <zadigvoltaireromania.com>, <zadigvoltairesrbija.com>, <zadigvoltairesuomi.com>, and <zadigyvoltaireitalia.com> (the “Domain Names”) are registered with Alibaba.com Singapore E-Commerce Private Limited (the “Registrar”).

### 3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 31, 2023. On September 1, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Names. On September 4, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Names which differed from the named Respondents (Anonymous) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 7, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the

Complaint or to file a separate complaint for each of the Domain Names. The Complainant filed the first amended Complaint on September 7, 2023. On September 11, 2023, in response to the Center's further request regarding consolidation, the Complainant filed the second amended Complaint.

The Center verified that the Complaint together with the amended Complaints 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 Respondents of the Complaint, and the proceedings commenced on September 15, 2023. In accordance with the Rules, paragraph 5, the due date for Response was October 5, 2023. The Respondents did not submit any response. Accordingly, the Center notified the Respondents' default on October 10, 2023.

The Center appointed Pablo A. Palazzi as the sole panelist in this matter on October 17, 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 French company established in 1997, active in the fashion industry and trading under the brand name ZADIG & VOLTAIRE and in particular ready-to-wear fashion, accessories, and perfumes. The Complainant is the owner of the International trademark registration No. 907298 for ZADIG & VOLTAIRE (word), registered on September 15, 2006 for goods and services in international classes 3,14,16,18, 20, 24, 25, 35, and 43.

Complainant also owns domain name registrations for ZADIG & VOLTAIRE, such as the domain name registered and used for its official website since May 16, 2002 <zadig-et-voltaire.com> ("zadig-et-voltaire" being French for ZADIG & VOLTAIRE).

The forty (40) Domain Names involved in this dispute were all registered on August 21, 2023. The Domain Names resolve to an inactive page.

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

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

The Domain Names are confusingly similar to the Complainant's ZADIG & VOLTAIRE trademark.

The Respondents have no rights or legitimate interests in respect of the Domain Names. The Respondents have registered and are using the Domain Names in bad faith.

The Complainant requests the consolidation of the Domain Names based on the reasons provided in its Complaint and amended Complaint.

The Complainant requests the transfer of the Domain Names.

##### **B. Respondents**

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

## 6. Discussion and Findings

### 6.1. Consolidation: Multiple Respondents

The amended Complaint was filed in relation to nominally different domain name registrants. The Complainant alleges that the Domain Names are under common control. The Complainant requests the consolidation of the Complaint against the multiple Domain Name registrants pursuant to paragraph 10(e) of the Rules.

The Domain Name registrants did not comment on the Complainant's request.

Paragraph 3(c) of the Rules states that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder.

In addressing the Complainant's request, the Panel will consider whether (i) the Domain Names or corresponding websites are subject to common control; and (ii) the consolidation would be fair and equitable to all Parties. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.11.2.

As regards common control, the Panel notes that:

- All the Domain Names were registered on the same date.
- The Domain Names were all registered with only one registrar (Alibaba.com Singapore E-Commerce Private Limited).
- All the Domain Names share the same pattern: they combine the trademark of the Complainant with the addition of a geographic term (countries) or a two-letter country code name.
- All the Domain Names are not in use.
- The Whols of the Domain Names all mention Orvieto as the province, city and address while the country is indicated as IT (the country code of Italy).
- All the Whols for the Domain Names used an email from <[...]@cxtmail.com>.

The Complainant provided evidence to support consolidation of the Respondents into one proceeding based on its Complaint, its amended Complaint, and the information available in the Whols record and email contact information.

As regards fairness and equity, the Panel sees no reason why consolidation of the Respondents would be unfair or inequitable to any Party.

Accordingly, the Panel decides to consolidate the disputes regarding the nominally different Domain Name registrants (referred to below as "the Respondent") in a single proceeding.

### 6.2 Substantive Issues

Paragraph 4(a) of the Policy provides that a complainant must prove each of the following elements with respect to each disputed domain name:

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

The burden of proof of each element is borne by the Complainant. The Respondent's default does not by itself mean that the Complainant is deemed to have prevailed. See [WIPO Overview 3.0](#), section 4.3.

### **A. Identical or Confusingly Similar**

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the Domain Names. [WIPO Overview 3.0](#), section 1.7.

Based on the available record, the Panel finds the Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

All the Domain Names entirely reproduce the Complainant's trademark ZADIG & VOLTAIRE with the mere addition of terms related to countries such as Hungary, Argentina, Australia, Belgique, Brasil (Brazil), Canada, Chile, Colombia, Danmark (Denmark), Deutschland, Eesti (Estonia), France, Greece, Hrvatska (Croatia), Ireland, Israel, Japan, Kuwait, Latvija (Latvia), Lietuva (Lithuania), Mexico, Nederland (Kingdom of the Netherlands), Norge (Norway), Polska (Poland), Portugal, Schweiz (Switzerland in German), Slovenija (Slovenia), Suisse (Switzerland in French), Sverige (Sweden), Uruguay, Bulgaria, Romania, Srbija (Serbia), Suomi (Finland in Finnish), and Italia and/or a combination of letters which may be interpreted as a country code, such as "cz", "nz", "sk", "uae", and "za".

The Panel finds the ZADIG & VOLTAIRE trademark is recognizable within all the Domain Names. Accordingly, the Domain Names are confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

While the addition of terms may bear on assessment of the second and third elements, the Panel finds the addition of terms does not prevent a finding of confusing similarity between the Domain Names and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The Panel accordingly finds that all the Domain Names are confusingly similar to the ZADIG & VOLTAIRE trademark in which the Complainant has rights, and that paragraph 4(a)(i) of the Policy is satisfied.

### **B. Rights or Legitimate Interests**

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

While the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. As such, 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. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the record, the Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the Domain Names. The Respondent has not rebutted the Complainant's *prima facie* showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the Domain Names such as those enumerated in the Policy or otherwise.

Based on the available record, the Panel finds the second element of the Policy has been established.

### C. Registered and Used in Bad Faith

Because the ZADIG & VOLTAIRE mark had been used and registered by the Complainant before the Domain Name registrations, the Panel finds it more likely than not that the Respondent had the Complainant's mark in mind when registering the Domain Names.

The Panel notes that for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular but without limitation, that if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

The Panel considers that the record of this case reflects that:

- The registration of the Complainant's trademark pre-dates the registration of the Domain Names by several years.
- The Domain Names were all registered the same date and with the same Registrar.
- The Domain Names incorporate the Complainant's ZADIG & VOLTAIRE mark in its entirety, with the addition of geographical indicators.
- The Domain Names incorporate the Complainant's mark, which is the most prominent element of the Domain Names.
- The Respondent is in default.
- The Domain Names are not in use.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

UDRP panels have found that the non-use of a domain name (including a blank or "coming soon" page) would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the record, the Panel finds the non-use of the Domain Names does not prevent a finding of bad faith in the circumstances of this proceeding. While panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (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, (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put. [WIPO Overview 3.0](#), section 3.3. Having reviewed the record, the Panel notes the distinctiveness or reputation of the Complainant's trademark, the composition of the Domain Names, the implausibility of any good faith use to which the Domain Names may be put, and finds that in the circumstances of this case the passive holding of the Domain Names does not prevent a finding of bad faith under the Policy.

Having reviewed the record, the Panel finds the Respondent's registration and use of the Domain Names constitutes bad faith under the Policy.

Based on the available record, the Panel finds the third element of the Policy has been 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 Domain Names <zadigandvoltagehungary.com>, <zadigetvoltageargentina.com>, <zadigetvoltageaustralia.com>, <zadigetvoltagebelgique.com>, <zadigetvoltagebrasil.com>, <zadigetvoltagecanada.com>, <zadigetvoltagechile.com>, <zadigetvoltagecolombia.com>, <zadigetvoltagecz.com>, <zadigetvoltage danmark.com>, <zadigetvoltage deutschland.com>, <zadigetvoltageeesti.com>, <zadigetvoltagefrance.com>, <zadigetvoltagegreece.com>, <zadigetvoltagehrvatska.com>, <zadigetvoltageireland.com>, <zadigetvoltageisrael.com>, <zadigetvoltagejapan.com>, <zadigetvoltagekuwait.com>, <zadigetvoltagelatvija.com>, <zadigetvoltageletuva.com>, <zadigetvoltagemexico.com>, <zadigetvoltage nederland.com>, <zadigetvoltage norge.com>, <zadigetvoltage nz.com>, <zadigetvoltagepolska.com>, <zadigetvoltageportugal.com>, <zadigetvoltage schweiz.com>, <zadigetvoltage sk.com>, <zadigetvoltage slovenija.com>, <zadigetvoltage suisse.com>, <zadigetvoltage sverige.com>, <zadigetvoltageuae.com>, <zadigetvoltageuruguay.com>, <zadigetvoltageza.com>, <zadigetvoltagebulgaria.com>, <zadigetvoltage romania.com>, <zadigetvoltage serbija.com>, <zadigetvoltage suomi.com>, and <zadigetvoltage italia.com> be transferred to the Complainant.

*/Pablo A. Palazzi/*

**Pablo A. Palazzi**

Sole Panelist

Date: October 30, 2023