

## ADMINISTRATIVE PANEL DECISION

Z&V v. Web Commerce Communications Limited, Client Care  
Case No. D2024-1438

### 1. The Parties

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

Respondent is Web Commerce Communications Limited, Client Care, Malaysia.

### 2. The Domain Names and Registrar

The disputed domain names <zagigandvoltaireargentina.com>, <zagigandvoltaireaustralia.com>, <zagigandvoltairebelgie.com>, <zagigandvoltairecanada.com>, <zagigandvoltairecolombia.com>, <zagigandvoltairedanmark.com>, <zagigandvoltairedeutschland.com>, <zagigandvoltaireegypt.com>, <zagigandvoltaireespana.com>, <zagigandvoltairefrance.com>, <zagigandvoltairegreece.com>, <zagigandvoltaireindia.com>, <zagigandvoltaireireland.com>, <zagigandvoltaireisrael.com>, <zagigandvoltaireitalia.com>, <zagigandvoltairejapan.com>, <zagigandvoltairemalaysia.com>, <zagigandvoltairemexico.com>, <zagigandvoltairenederland.com>, <zagigandvoltairenorge.com>, <zagigandvoltaireosterreich.com>, <zagigandvoltairepolska.com>, <zagigandvoltaireromania.com>, <zagigandvoltaireschweiz.com>, <zagigandvoltairesingapore.com>, <zagigandvoltaireuae.com>, <zagigandvoltaireuruguay.com>, <zagigandvoltaireusa.com>, <zagigetvoltairemagyarorszag.com>, <zagigvoltairebrasil.com>, <zagigvoltairechile.com>, <zagigvoltaireportugal.com>, <zagigvoltairesverige.com>, <zagigvoltaireturkiye.com>, and <zagigvoltaireuk.com> 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 April 4, 2024. On April 5, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On April 7, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (Unknown) and contact information in the Complaint. The Center sent an email communication to Complainant on April 8, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on April 19, 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 Respondent of the Complaint, and the proceedings commenced on April 25, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 27, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on May 28, 2024.

The Center appointed Georges Nahitchevansky as the sole panelist in this matter on June 3, 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**

Complainant, is a French company that provides ready-to-wear fashion, accessories and perfumes. Complainant operates under the name and mark ZADIG & VOLTAIRE. Complainant owns trademark registration for its ZADIG & VOLTAIRE mark in the European Union (Registration No. 005014171) that issued to registration on June 8, 2007 and an International Registration (Registration No. 907298) that issued to registration on September 15, 2006 and which was extended to numerous jurisdictions around the world. Complainant also owns and uses the domain name <zadig-et-voltaire.com> for its official website concerning its products.

The actual identity of Respondent is unknown as Respondent listed for the disputed domain names appears to be a privacy or proxy service. The disputed domain names were registered on March 22, 2024. Several of the disputed domain names have been used in connection with websites that mimic Complainant’s official site at “www.zadig-et-voltaire.com” and others do not appear to have been put into use and are currently inactive.

#### **5. Parties’ Contentions**

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

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

In particular, Complainant contends that it has established rights in the ZADIG & VOLTAIRE mark and that all of the disputed domain names essentially consist of the ZADIG & VOLTAIRE mark with the addition of country names at the tail of the disputed domain names. Complainant further contends that Respondent does not have rights or legitimate interests in the disputed domain name as Respondent (i) is not known by the disputed domain names, (ii) is not related in any way to Complainant and has no license or authorization from Complainant to use the ZADIG & VOLTAIRE mark and (iii) has either used the disputed domain names that are clearly based on the ZADIG & VOLTAIRE mark for websites that mimic Complainant’s official website or made no use of such.

Lastly, Complainant argues that Respondent has registered and used the disputed domain names in bad faith as Complainant’s mark is distinctive and well known. Complainant maintains that it is inconceivable that Respondent was not aware of Complainant’s rights, particularly in view of Respondent’s use of several of the disputed domain names to impersonate Complainant. In addition, Complainant contends that while Respondent has not made use of all of the disputed domain names, it is “not possible to conceive of any plausible actual or contemplated active use of the domain names by the Respondent that would not be illegitimate.”

## **B. Respondent**

Respondent did not reply to Complainant's contentions.

## **6. Discussion and Findings**

Under paragraph 4(a) of the Policy, to succeed Complainant must satisfy the Panel that:

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

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

Ownership of a trademark registration is generally sufficient evidence that a complainant has the requisite rights in a mark for purposes of paragraph 4(a)(i) of the Policy. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)") at section 1.7. Complainant has provided evidence that it owns a trademark registration for the ZADIG & VOLTAIRE mark and that such issued to registration well before Respondent registered the disputed domain names.

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 Complainant's trademark and the disputed domain names.

Here, the disputed domain names essentially copy the ZADIG & VOLTAIRE mark by replacing the ampersand with the conjunction "and." Such a minor difference is not material as the entirety of Complainant's mark is recognizable in the disputed domain names. Although the addition of country names at the tail of the disputed domain names may bear on the assessment of the second and third elements, the Panel finds the addition of such country names does not prevent a finding of confusing similarity between the disputed domain names and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The Panel thus finds that the first element of the Policy has been established.

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

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

Although 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 difficult 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 (although the burden of proof always remains on the complainant). 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 available record, the Panel finds that Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the disputed domain names. Respondent has not rebutted Complainant's prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain names such as those enumerated in the Policy or otherwise.

Here, all of the disputed domain names are clearly based on Complainant's exact ZADIG & VOLTAIRE mark. The addition of country names at the tail of each of the disputed domain names make it more likely than not that each of the disputed domain names will mistakenly be seen by consumers as related to Complainant and its products in the particular country in question. In all, the disputed domain names, on their face, effectively impersonate Complainant and thus carry a high risk of implied affiliation. As such, it is hard to see how Respondent could have any rights or legitimate interests in the disputed domain names. [WIPO Overview 3.0](#) at section 2.5.1.

Further confirming Respondent's lack of rights or legitimate interests in the disputed domain names is Respondent's use of a number of disputed domain names for websites that attempt to pass themselves off as official websites of Complainant. Such use appears fraudulent and is likely being done as part of some nefarious scheme for the profit of Respondent. Panels have consistently held that the use of domain names for illegal activity such as impersonation can never confer rights or legitimate interests on a respondent. WIPO Id. at section 2.13.1.

The Panel finds the second element of the Policy has been established.

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

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.

In view of Respondent's actions, and failure to appear in this proceeding, it is easy to infer that Respondent's registration and use of the disputed domain names, which all prominently include Complainant's exact ZADIG & VOLTAIRE mark has been done opportunistically and in bad faith for the benefit or profit of Respondent. The disputed domain names essentially impersonate Complainant and were registered well after Complainant had established rights in its ZADIG & VOLTAIRE mark. Although Respondent has not used some of the disputed domain names for an active website or page, it is inconceivable that the disputed domain names could be used for a legitimate purpose, particularly as Respondent has used many of the disputed domain names to post websites that mimic Complainant's official website. In all, Respondent's actions, including the registration of numerous domain names based on the ZADIG & VOLTAIRE mark, make it clear that Respondent was fully aware of Complainant and its ZADIG & VOLTAIRE name and specifically chose to target Complainant in bad faith for what appears to be illegal activity. [WIPO Overview 3.0](#), section 3.4.

The Panel finds that Complainant has established the third element 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 names listed below be transferred to Complainant.

<zadigandvoltaireargentina.com>, <zadigandvoltaireaustralia.com>, <zadigandvoltairebelgie.com>, <zadigandvoltairecanada.com>, <zadigandvoltairecolombia.com>, <zadigandvoltairedanmark.com>, <zadigandvoltairedeutschland.com>, <zadigandvoltaireegypt.com>, <zadigandvoltaireespana.com>, <zadigandvoltairefrance.com>, <zadigandvoltairegreece.com>, <zadigandvoltaireindia.com>, <zadigandvoltaireireland.com>, <zadigandvoltaireisrael.com>, <zadigandvoltaireitalia.com>, <zadigandvoltairejapan.com>, <zadigandvoltairemalaysia.com>, <zadigandvoltairemexico.com>, <zadigandvoltairenederland.com>, <zadigandvoltairenorge.com>, <zadigandvoltaireosterreich.com>, <zadigandvoltairepolska.com>, <zadigandvoltaieromania.com>, <zadigandvoltaireschweiz.com>, <zadigandvoltairesingapore.com>, <zadigandvoltaireuae.com>, <zadigandvoltaireuruguay.com>, <zadigandvoltaireusa.com>, <zadigetvoltairemagyarorszag.com>, <zadigvoltairebrasil.com>, <zadigvoltairechile.com>, <zadigvoltaireportugal.com>, <zadigvoltairesverige.com>, <zadigvoltaireturkiye.com>, and <zadigvoltaireuk.com>.

*/Georges Nahitchevansky/*

**Georges Nahitchevansky**

Sole Panelist

Date: June 17, 2024