1. Procedural History

The Complaint was filed in English with the Hong Kong International Arbitration Centre (HKIAC) (the “Center”) on 11 September 2017. On 12 September 2017, the Center transmitted an email to the Registrar to request for registrar verification in connection with the disputed domain name. On 12 September 2017, the Registrar of <bzero.cn>, and on 14 September 2017, the Registrar of <top-bulgari.cn> respectively transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the Hong Kong International Arbitration Centre (HKIAC) pursuant to the CNNIC ccTLD Dispute Resolution Policy (the “Policy”), the CNNIC ccTLD Dispute Resolution Policy Rules (the “Rules”), and the HKIAC Supplemental Rules to CNNIC ccTLD Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with Articles 2 and 4 of the Rules, the Center formally notified the Respondent in English and Chinese of the Complaint, and the proceeding commenced on 14 September 2017. In accordance with Article 17 of the Rules, the due date for Response was 9 October 2017. According to Article 8 of the Rules, unless otherwise agreed by the Parties or determined in exceptional cases by the Panel, the language of the domain name dispute resolution proceedings shall be Chinese. The Complainant requested English as the language of the proceedings for this case and the Respondent was asked to respond to the Center on or before 19 September 2017 to the request to change the language of the arbitration proceedings to English.
The Respondent did not submit any substantive response to the Complaint or to the Complainant’s language request. The Center notified the Parties the commencement of panel appointment process on 10 October 2017.

The Center appointed Douglas Clark as the sole panelist in this matter on 20 October 2017. 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.

2. Factual background

The Complainant is an Italian private company founded in 1884 by Sotirio Bulgari and operates in the luxury goods and hotels markets. The Complainant opened its first international locations in New York City, Paris, Geneva and Monte Carlo in the 1970s and currently has more than 230 retail locations worldwide.

In 1999 the Complainant released the ‘B.ZERO1’ brand which has become one of the most popular pieces of jewelry in the Complainant’s catalogue.

The Complainant is the owner of the following global trade marks:

<table>
<thead>
<tr>
<th>Trade Mark</th>
<th>Country</th>
<th>Registration Number</th>
<th>Registration Date</th>
<th>Classes Covered</th>
</tr>
</thead>
<tbody>
<tr>
<td>B. ZERO1</td>
<td>United States</td>
<td>2837806</td>
<td>04-05-2004</td>
<td>14</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Trade Mark</th>
<th>Country</th>
<th>Registration Number</th>
<th>Registration Date</th>
<th>Classes Covered</th>
</tr>
</thead>
<tbody>
<tr>
<td>BVGLGARI</td>
<td>European Union</td>
<td>007138101</td>
<td>03-06-2009</td>
<td>35,36,41,43</td>
</tr>
<tr>
<td>BVGLGARI</td>
<td>United States</td>
<td>876690</td>
<td>10-10-2002</td>
<td>35,41,42</td>
</tr>
<tr>
<td>BULGARI</td>
<td>United States</td>
<td>1184684</td>
<td>05-01-1982</td>
<td>25</td>
</tr>
<tr>
<td>BVGLGARI</td>
<td>Canada</td>
<td>TMA312178</td>
<td>14-03-1986</td>
<td>14,21,26</td>
</tr>
</tbody>
</table>

The Complainant also have registered international trade marks which are valid and subsisting in China:
The Complainant registered the domain www.bulgari.com on 17th February 1998 which enables users to access all product lines: jewelry, high jewelry, fragrances, leather goods, accessories, watches and the bridal collection. Internet users are also able to locate the Complainant’s stores and authorized retailers worldwide.

The Respondent registered the disputed domain name <bzero.cn> on 25 November 2015, and <top-bulgari.cn> on 3 January 2017. According to the evidence submitted by the Complainant, the disputed domain names resolve to websites offering replicas of the Complainant’s “B.ZERO1” rings and “Fake Bvlgari ring” at prices significantly lower than the Complainant’s official selling price.

3. Parties’ Contentions

A. Complainant

The Complainant’s contentions may be summarized as follows:

i. Language of the Proceeding

The Complainant requested to use English as the language of the proceeding. The Complainant submitted that the Respondent can read and understand English which is supported by the content of the websites under the disputed domain names. The disputed domain name <bzero.cn> advertises products in nine languages, one of which is English and the disputed domain name <top-bulgari.cn> offers products in four languages, one of which is English.

The Complainant also submitted that the Respondent has a portfolio of over 100 domain names, many of which feature English words, including but not limited to <firekick.cn>, <getdiscountbags.cn> and <replica-bags.cn>, therefore suggesting the Respondent understands or is at the very least, competent, with the English language.
The Complainant further submitted that translating this complaint in Mandarin/Chinese will lead to undue delay and substantial expenses which go against the spirit of the Policy.

ii. Identical or confusingly similar

The Complainant submitted that they hold registered international trade marks “BVLGARI” and “B.ZERO1”, which are valid in the Peoples Republic of China. The word “BVLGARI” is not generic or commonly understood by any other meaning, other than their relationship with the Complainant’s goods and services, in fact, “BVLGARI” is derived from the Complainant’s founder’s surname, Sotirio “Voulgaris”. “BVLGARI” is simply the phonetic version of this surname. The Complainant’s trade mark is both written “BVLGARI” in the classical Latin alphabet and “BULGARI” in the modern alphabet. Similarly, the word “B.ZERO1” is unique and have no other meaning, except their relevance to the Complainant and their goods and services

The Complainant further submitted that both disputed domain names are confusingly similar to the Complainant’s registered trade marks.

The disputed domain name <bzero.cn> features the word “BZERO”, which includes the majority of the Complainant’s trade mark, except the “.” and “1”, which does not materially alter the overall impression of the domain name in the eyes of an unsuspecting Internet user. The Complainant submitted that the deliberate omission of the “.” and “1” should be interpreted as an instance of “typosquatting”, whereby a registrant acquires a domain name, to take advantage of innocent mistakes likely to occur when Internet users quickly type in URL’s and omit certain letters and/or numbers, which direct them to a different website unassociated with the brand owner.

The disputed domain name <top-bulgari.cn> includes in full the Complainant’s US trade mark “BULGARI”, together with the word “top” and a hyphen. The Complainant submitted that the terms “BULGARI” and “BVLGARI” are often synonymous, 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 addition of the term “top” does nothing to materially alter the overall impression in the eyes of an unsuspecting Internet user because the term “BULGARI” is the distinguishing element of the overall domain name. Furthermore, the word “top” is suggestive of the Complainant being a top brand for luxury products and services, which creates further confusion. Lastly, the addition of the ccTLD “.cn” is not sufficient to escape a finding that the Infringing Domain Names are confusingly similar.

iii. No rights or legitimate interests
(A) Not bona-fide offering of goods and/or services

The Complainant submitted that the websites under both disputed domain names are active and offer replica/counterfeit goods. In addition to the significant price differences, the product titles and descriptions shown on the websites indicate that they are counterfeit goods, with key words such as “Fake Bvlgari ring” and “Replica Bvlgari B.ZERO1 1-band ring in 18K white gold”. The Complainant submitted that even though the products say they are “fake” or “replica”, there is still insufficient evidence to show a bona fide offering of goods and/or services under the Policy, as the Respondent is diluting the quality of the Complainant’s products, for their commercial benefit.

(B) Not commonly known by the domain name

The Complainant also submitted that the Respondent has never been known as “TOP-BULGARI” or “BZERO” and furthermore, has never been given permission by the Complainant to use these brands in domain names, or for any other purpose.

(C) Not a legitimate non-commercial or fair use

The Complainant further submitted that the dispute domain names have been registered with the main intention of offering counterfeit products which replicate the Complainant’s official goods. Through offering counterfeit products, without permission from the Complainant, the Respondent is making a “commercial gain”, which is to the detriment of the Complainant. As such, there is no evidence to suggest a legitimate non-commercial or fair use.

iv. Registered and is being used in bad faith

The Complainant submitted that the disputed domain names post-date the registration of the Complainant’s trade marks by over 17 years and both the “BVLGARI” and “B.ZERO1” brands have been promoted extensively in China. Variations of the Complainant’s products are featured in the content of the disputed domain names, with specific reference to “BVLGARI”, “B.ZERO1” and several other brands which belong to the Complainant. Therefore, the Respondent had actual knowledge of the Complainant and their brands at the time the disputed domain names were registered.

The Complainant also submitted that the Respondent has a history of registering domain names that feature third party trade marks, in order to sell counterfeit goods. Examples include the registration of <vancellejewelry.cn> and <nikesupplying.cn>. Furthermore, other domain names in the Respondent’s portfolio offer counterfeit products, relating to a variety of established brands, such as Rolex and Omega. Such use shows that the Respondent has a complete
disregard for Intellectual Property rights and will continue to dilute the goodwill and valuable reputation of well-known brands.

The Complainant further submitted that the disputed domain names have been registered with the intent to damage the Complainant’s reputation and disrupt the Complainant’s normal business. Specifically, the disputed domain names intend to attract Internet users to the Respondent’s websites, for the purpose of generating commercial gain from selling unauthorized goods that carry the distinctive “BVLGARI” and “B.ZERO1” brand names.

B. Respondent

The Respondent did not submit a formal response.

4. Findings

A. Language of the Proceeding

According to Article 8 of the Rules and Article 6 of the Policy, the language of the domain name dispute resolution proceedings shall be Chinese unless otherwise agreed by the parties or determined by the Panel.

The Complainant requests that the language of proceeding be English on a number grounds.

The Respondent did not respond to this or otherwise make submissions relating to the language of the proceeding.

The Panel considers the merits of the case to be strongly in favor of the Complainant. Translating the Complaint would cause unnecessary delays and expense. The Respondent has not responded to the Complaint or in relation to the language of proceeding. The websites under the disputed domain names are written in multiple languages, including English, indicating the Respondent conducts business internationally. The websites under the disputed domain names, notably, do not have any text in Chinese. These factors lead the Panel to determine to use English as the language of the proceeding. As the only pleading before the Panel is in English, the Panel will render its decision in English.

B. Substantive issues

As to the case, Article 8 of CNDRP provides that a complaint against a registered domain name shall be supported if the following conditions are fulfilled:

i. The disputed domain name is identical with or confusingly similar to the Complainant’s name or mark in which the Complainant has civil rights or interests;

ii. The disputed domain name holder has no right or legitimate interest in respect of the domain name or major part of the domain name;

iii. The disputed domain name holder has registered or has been using the domain name in bad faith.
Article 7 of CNDRP states that the complainant and the respondent shall bear the burden of proof for their own claims. With reference to the complaint and the attached documents, the Panel of this case considers that:

**Identical or Confusing Similarity**

The disputed domain name <top-bulgari.cn> is made up of “BULGARI” which is highly similar to the Complainant’s registered trade mark “BVLGARI” and the word “top” which are linked together with a hyphen, and ends with ccTLD ".cn".

The disputed domain name is confusingly similar to the Complainant’s registered trademark “BVLGARI” in China or the Complainant’s company name “BULGARI”. The ccTLD is disregarded and the addition of the word “top” is insufficient to dispel any confusion. The Panel finds the disputed domain name <top-bulgari.cn> is identical or confusing similar to the registered trade mark “BULGARI”.

The disputed domain name <bzero.cn> on the other hand includes the majority of the Complainant’s registered trade mark “B.ZERO1” except the “.” and “1”. The disputed domain name is confusingly similarly to the Complainant’s trade mark.

**Rights or Legitimate Interests of the Respondent**

Article 10 of the Policy sets out the ways in which a respondent may demonstrate a right or legitimate interest in the domain name if it can be established that:

- Your use of the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services;
- You have been commonly known by the domain name, even if you have acquired no trademark or service mark rights;
- You are making a legitimate non-commercial or fair use of the domain name, without intent of or commercial gain to misleadingly divert consumers.

The Respondent has not responded to the Complaint to present any evidence to establish rights or legitimate interests under these heads.

The websites under the disputed domain names offer goods explicitly described as “fake” and “replica” of the Complainant’s products, together with the significant discounted price, there is no doubt that it is not a bona fide offering of goods and/or services and the Respondent is diluting the quality of the Complainant’s products. Such use is also not a legitimate non-commercial or fair use.

The Respondent has never been known by the registered trade marks of “BULGARI” or “BZERO” and has never been given permission by the Complainant to use those marks.

The Panel, therefore, finds the Respondent has no rights or legitimate interests of the disputed domain names.
Bad Faith

Article 9 of the Policy sets out the circumstances which may be considered as the evidence of the registration and use of a domain name in bad faith:

- The purpose for registering or acquiring the domain name is to sell, rent or otherwise transfer the domain name registration to the complainant who is the owner of the name or mark or to a competitor of that complainant, and to obtain unjustified benefits;
- The disputed domain name holder, on many occasions, registers domain names in order to prevent owners of the names or marks from reflecting the names or the marks in corresponding domain names;
- The disputed domain name holder has registered or acquired the domain name for the purpose of damaging the Complainant's reputation, disrupting the Complainant's normal business or creating confusion with the Complainant’s name or mark so as to mislead the public;
- Other circumstances which may prove the bad faith.

Given its findings in relation to rights and legitimate interests, the Panel has no hesitation in finding that the disputed domain names were registered in bad faith and are being used in bad faith.

By using the disputed domain names to sell fake and counterfeit products the Respondent clearly has intentionally attempted to attract, for commercial gain, internet users to her websites, by creating a likelihood of confusion with the complainant’s marks as to the source, sponsorship, affiliation, or endorsement of her website or her products or services, and in the process has damaged the Complainant’s reputation and has disrupted the Complainant’s normal business.

5. Decision

For the foregoing reasons, in accordance with Article 14 of the Policy, the Panel orders that the disputed domain names <bzero.cn> and <top-bulgari.cn> be transferred to the Complainant.

[Signature]

Panelist: Douglas Clark

Date: 6 November 2017