

**DECISION OF THE THIRD-PARTY DECIDER**

**Luigi Lavazza S.p.A. / Service Pus Import-Export BVBA**

**Case no. 44427: lavazza.be; lavazzablue.be; lavazzacapsules.be;  
lavazzacoffee.be; lavazzaconcept.be; lavazzashop.be; shoplavazza.be**

**1. The parties**

- 1.1. Complainant: Luigi Lavazza S.p.A.;  
with registered office at 10154, Torino, Italy, Corso Novara 59  
E-mail: info@studiobarbero.com.

*Represented by:*

Mr. Luca Barbero, Managing Director  
with office STUDIO BARBERO S.p.A. at 10126, Torino, Italy,  
Corso Massimo d'Azeglio, 57  
E-mail: info@studiobarbero.com.

- 1.2. Respondent: Service Plus Import-Export BVBA;  
with registered office at 2550, Kontich, Belgium, Koningin  
Astridlaan, 58  
E-mail: [info@lavazza.be](mailto:info@lavazza.be); Danielle.braff@lavazza.be.

*Represented by:*

Mr. Olivier Van Fraeyenhoven, Attorney at law,  
with office at 2600, Berchem, Roderveldlaan, 3  
E-mail: ovf@astrealaw.be

**2. Domain names**

Domain names:

- **lavazza.be**, registered on 13 December 2000
- **lavazzablue.be**, registered on 28 December 2004
- **lavazzacapsules.be**, registered on 4 November 2009

- **lavazzacoffee.be**, registered on 3 April 2007;
- **lavazzaconcept.be**, registered on 2 April 2010;
- **lavazzashop.be**, registered on 8 May 2013;
- **shoplavazza.be**, registered on 21 January 2014"

hereafter referred to as "the domain names ".

### 3. Background to the case

1. The Complainant filed three complaints with CEPANI under article 10 of the general terms and conditions of the domain name registration within the ".be" domain governed by DNS Belgium (hereafter referred to as "*the DNS Policy*") and in accordance with the CEPANI Rules for domain name dispute resolution (hereafter referred to as "*the CEPANI rules*").

On 31 May 2017 the Complainant filed a complaint in English with regard to:

- **lavazza.be**, registered on 13 December 2000.

On 31 May 2017 the Complainant filed a complaint in Dutch with regard to:

- **lavazzacapsules.be**, registered on 4 November 2009
- **lavazzacoffee.be**, registered on 3 April 2007;
- **lavazzaconcept.be**, registered on 2 April 2010;
- **lavazzashop.be**, registered on 8 May 2013;
- **shoplavazza.be**, registered on 21 January 2014.

On 31 May 2017 the Complainant filed a complaint in French with regard to:

- **lavazzablue.be**, registered on 28 December 2004

The Parties agreed to merge the three complaints and to conduct the proceedings in English.

On 10 July 2017 the Respondent filed its response.

On 12 July 2017, CEPANI appointed Mr. Tom Heremans to act as third party decider pursuant to the CEPANI Rules.

On 14 July 2017 the Complainant requested to be allowed to reply to the Response of the Domain Name Holder, because this Response contains - according to the Complainant - incorrect representations.

On 19 July 2017 the third-party decider granted additional terms for final written arguments for both parties.

On 28 July 2017 the Complainant filed its Retort to the Response.

On 11 August 2017 the Respondent filed its Final Response.

On 18 August 2017 the debates were closed.

In its Response, the Respondent requested the third-party decider to hear the parties in person in order to set out the context of the broader commercial cooperation between the Parties throughout the years.

The third-party decider deems to have sufficient information to render a decision without hearing the parties in person. Accordingly, this decision is based on the Complaint, the Response, the Complainant's Retort to the Response and the Respondent's Final Response.

#### 4. Factual information

2. The Complainant, Luigi Lavazza S.p.A., is a coffee roaster company, which sells its products and services under the trademark LAVAZZA. It was first established in 1895 in Turin and now operates in over 90 countries, with thousands of employees and a wide distribution network. With a constantly growing turnover, which amounted to € 1,473 billion in 2015, the Complainant has established itself as one of the Italian brands with the highest credibility abroad, thanks to a vision based on a constant dialogue between tradition and innovation. Today, the Complainant affirms to be a leader in the industry, with over 50% of its turnover originated abroad.

3. The trademark LAVAZZA is registered by the Complainant in several countries and regions, since at least 1966, including *inter alia*:

- the EU word mark LAVAZZA with n° 317057;
- the international word mark LAVAZZA with n° 317174;
- the international word mark LAVAZZA with n° 450754;
- the international figurative mark LAVAZZA BLUE with n° 1158032;



- the international figurative mark LAVAZZA ESPRESSO POINT with n° 915267:



4. In addition, the Complainant has registered more than 700 domain names containing the trademark LAVAZZA, including the domain name "Lavazza.com".

The Complainant mainly operates country-focused websites under cc-TLD domain names. On its ccTLD websites the Complainant *inter alia* presents its full product range that is available in that particular country and the distributors who are selling those products. In the countries where the Complainant is selling its products directly or through a local affiliated company, it also operates web shops where customers can purchase these products directly.

This approach allows the Complainant to present a globally consistent message, offer its full product range and treat all its distributors on equal footing. The distributors are allowed to operate their own website under their own name. With regard to the LAVAZZA brand, the Complainant provides all necessary information, images and branding guidelines to ensure that the distributors will pass on the internationally harmonised vision and image of the Complainant.

5. Over the years, the Complainant has developed various coffee-related products and services directed at:

- consumers, for home use (capsules, coffee blends), for which other sub-trademarks such as “A MODO MIO” have been created;
- hotels, restaurants and cafés, for serving LAVAZZA coffee to customers, including professional equipment for such professional users to make and serve coffee;
- corporate customers, for serving LAVAZZA coffee in the office, under the trademarks LAVAZZA ESPRESSO POINT and LAVAZZA BLUE, as well as vending machines for large office areas and highly frequented public areas.

6. The Respondent, Service Plus Import-Export BVBA is a Belgian company that owns the Domain Names, besides other domain names such “serviceplus.be”, which redirects to the website [www.lavazza.be](http://www.lavazza.be). The whois records of the Domain Names refer to the Domain Name Holder as “Service Plus BVBA” but the file exhibits show that the Domain Name Holder’s full name is Service Plus Import-Export BVBA.

7. The Complainant formerly used to distribute its products in certain markets through a French distributor, the company Deotto Espresso System (DES). DES was the exclusive distributor of Lavazza automatic distribution products under the trademark LAVAZZA ESPRESSO POINT and the non-exclusive distributor for products under the trademark LAVAZZA BLUE. DES subsequently concluded a sub-distribution agreement with the Respondent for the distribution of these products in Belgium.

8. Following changes in DES in 2008, a Joint Venture was created between Deotto Finance (company owned by Mr. Deotto, proprietor of DES), the Complainant and the Italian automatic distribution products operator IVS Group. As of March 2009, DES became Espresso Service Proximité (ESP) and operated as importer of LAVAZZA ESPRESSO POINT and LAVAZZA BLUE in France. Following the creation of the Joint Venture, as of October 2008 all the non-French clients of DES were transferred to the Complainant.

The Respondent, one of those non-French clients to be transferred to the Complainant, initially attempted to oppose to the transfer and refused to sign a new distribution agreement with the Complainant.

Since the Respondent refused to sign a new distribution agreement, the Complainant proposed to continue the existing distribution agreement between DES and the Respondent, whereby the Respondent did not have an exclusive right for the LAVAZZA BLUE products, but had exclusivity for the LAVAZZA ESPRESSO POINT products. The Respondent agreed with this. Accordingly, the Respondent has been the Complainant’s exclusive distributor for Belgium since May 2009 for the LAVAZZA ESPRESSO POINT products and a non-exclusive distributor for the LAVAZZA BLUE products.

9. Today, the Respondent is purchasing only a small part of the entire product range of the Complainant directly from the Complainant. Its turnover represents less than 10% of the Complainant’s total turnover in Belgium and has decreased significantly throughout the years.

10. Since the beginning of the direct commercial relationship between the Complainant and the Respondent, there have been ongoing discussions about *inter alia* the Domain Names. Several letters were sent back and forth. The Complainant lay claim to the Domain Names and requested the Respondent to transfer the Domain Names to the Complainant on many occasions. After having consulted a legal specialist on the matter, the Respondent decided not to transfer the Domain Names without obtaining a clear and binding agreement regarding the online presentation of the Respondent as the exclusive distributor of all LAVAZZA products in Belgium and the Netherlands.

The commercial relationship continued to deteriorate throughout the years. The Respondent registered and abandoned domain names containing the LAVAZZA trademarks without informing the Complainant, notwithstanding the fact that there was a clear and imminent risk of illegitimate third parties registering such abandoned domain names. At the same time the Complainant launched new product lines for which it did not grant any distribution rights to the Respondent. As a result of the Complainant's commercial strategy, according to the Respondent's, his turnover decreased and he suffered damage.

On 27 February 2017, the Respondent indicated that it could agree "*with the transfer of the domain name www.lavazza.be to Lavazza, provided a fair and balanced agreement is reached between all stakeholders over the use of the domain name in the future.*" The Respondent reiterated this message in an email of 24 March 2017 and proposed to organize a meeting to discuss the commercial relationship.

The Complainant replied by reiterating the transfer request of the domain names and indicating that it was prepared to discuss the practical arrangements with respect to the Domain Name "Lavazza.be" and the related email address.

Since the Respondent was not willing to transfer the Domain Names unless the Complainant and the Respondent first agreed on the future commercial and digital presence of the Respondent in the LAVAZZA environment and on the future "Lavazza.be" website, the Complainant finally filed the complaint.

11. On 12 July 2017, in the course of the present Domain Name proceedings, the Complainant terminated the Distribution Agreement with the Respondent, effective as of 1 January 2018.

## **5. Position of the parties**

### **5.1. Position of the Complainant**

12. In summary, the Complainant argues that the transfer of the Domain Names should be ordered because the three cumulative conditions for the transfer of the Domain Names are fulfilled.

First, the Domain Names are identical or confusingly similar to the Complainant's trademarks.

Second, the Respondent has no rights to or legitimate interests in the Domain Names. The Complainant has not provided the Respondent with any express authorisation to register or use its trademarks as domain names. In addition, the Respondent is not commonly known by the Domain Names and holds no trademark

registrations or other registered rights in a name containing LAVAZZA. The Respondent has not prior to any notice of the dispute, (i) used the Domain Names in connection with a *bona fide* offering of goods or services or made demonstrable preparations for such use, or (ii) made a legitimate and non-commercial or fair use of the domain names, without intent for commercial gain to misleadingly divert consumers or to tarnish the Complainant's trademarks since:

1. The Respondent has never obtained the Complainant's authorization to register and maintain the Domain Names. On the contrary: the Complainant has requested the Respondent on several occasions to transfer those domain names identical or confusingly similar to LAVAZZA, but the Respondent failed to comply;
2. By using the denomination LAVAZZA BELGIUM, the Respondent raises the impression that it is an affiliate of the Complainant, which it is not;
3. Since the Respondent is only reselling part of the Complainant's products, customers cannot obtain all products in the Complainant's product range. Verifications conducted by the Complainant showed that, instead of referring customers who would like to obtain products that are not within the product range offered by the Respondent to other LAVAZZA distributors, the Respondent is only stating that these products are not available. Such behaviour entails loss of business for both the Complainant and its other distributors and, moreover, reflects badly on the LAVAZZA brand;
4. The Respondent does not act in conformity with the Complainant's branding guidelines;
5. The Respondent recently confirmed in writing that it was willing to transfer the disputed domain names, but so far it has not done so and suddenly imposes unclear conditions for such transfer.

Third, the Respondent registered and is using the Domain Names in bad faith, since:

1. The Respondent was aware of the Complainant's trademark rights at the time of registration of the domain names
2. The Respondent creates the impression that it is an affiliate of the Complainant
3. The Respondent is attracting internet users to its website for commercial gain
4. The Respondent is preventing Complainant to register intuitive LAVAZZA domain names in the .BE top-level domain
5. The Respondent's passive holding of "lavazzacoffee.be" does not prevent the finding of bad faith.

To conclude, the Complainant did not bring a complaint against the Respondent before since it still hoped to amicably resolve the issue. Initially, the Complainant wished to avoid the impact of a legal action on its commercial relationship with Respondent, ensuring continuity of supply of LAVAZZA products to the Belgian market. However, since over the years the situation has changed, as the Respondent now represents only 10% of LAVAZZA turnover in Belgium, the Respondent's use of the Domain Names is seriously harming the Complainant and its other distributors.

The Complainant has proposed to take over the Domain Names and allow the Respondent to continue to use these for a certain period of time in order to enable the transition to a new website and email address, for example under its domain name <serviceplus.be>, and inform users of the changes. But the Respondent has not responded to this offer and stated that it will transfer the disputed domain names

to Complainant “provided that a constructive discussion on the commercial terms of our collaboration and our digital presence can take place”.

The Complainant contends that such behaviour does not comply with the requirement of a distributor or domain holder acting in good faith, especially when the party requesting the transfer is the clear and unambiguous holder of trademark registrations that are included in the domain names. Moreover, such transfers of the disputed domain names by the Respondent would be subject to certain conditions still to be imposed by the Respondent. Thus, the Complainant had no other choice than to initiate these proceedings to recover the domain names.

## **5.2. Position of the Respondent**

13. The Respondent argues that the three cumulative conditions to impose the transfer of the Domain Names are not met.

14. First, the Respondent does not dispute the fact that the Domain Names are similar to the Complainant’s trademarks. The Respondent contests however that the Domain Names are “confusingly similar” to the Complainant’s trademarks since the Respondent represents itself as “Lavazza Belgium by Service Plus”. This implies that the Respondent does not try to identify itself as the trademark holder. The consumers will not be confused between the use of the Domain Names by the Respondent and the trademarks of the Complainant, especially since the Complainant’s website also appears as one of the first results after a “Lavazza” Google search.

15. Second, the Respondent contends that it has a right or legitimate interest in the Domain Names.

The Respondent states that the use of the domain names by the Respondent is in connection with a bona fide offering of goods. The Respondent is an official LAVAZZA distributor since 1992 and the registration of the first Domain Name dates from 2000. In the following years the other Domain Names were registered. The Domain Names were registered for the promotion of the LAVAZZA products and to identify the Respondent as the (exclusive) distributor on the Belgian and Dutch markets. The Domain Names are exclusively used for LAVAZZA products. The Complainant has always been aware of the Domain Names and according to the Respondent even made a link on its website. Only after 2009 did the Complainant start challenging the Domain Names, but when the Respondent invited the Complainant to discuss its online representation given the deterioration of the commercial relationship, the Complainant refused this. Hence, even after 2009 the use of the Domain Names was still bona fide.

The Respondent also contends that it is commonly known by the Domain Names as it was the first exclusive distributor, which has built a loyal clientele over 25 years. The Respondent states that this is confirmed by the fact that the Complainant even made a link on its own website to the Respondent’s Domain Name. The Respondent contests that its turnover represents less than 10% of the LAVAZZA turnover in Belgium. The turnover of LAVAZZA products sold through different distribution channels should be disregarded and the Complainant’s commercial strategy (disrespecting the Respondent’s exclusivity rights, creating cannibalisation, refusing to sell product ranges to the Respondent, hampering the order process for the

Respondent, bypassing the Respondent and contacting its clients directly) has affected the Respondent's sales results over the last years.

Finally, the Respondent contends that it is making a legitimate and non-commercial or fair use of the Domain Names without intent to misleadingly divert consumers for commercial gain or to tarnish the trademark. The Respondent clearly presents itself as an exclusive importer of Espresso Point Gamma products and importer of Blue Gamma products and presents itself as "Lavazza Belgium by Service Plus". The indication of the trademark LAVAZZA in the Domain Names is necessary to make clear to customers that the Respondent is a distributor of the products. The Respondent cannot be expected to refer to the other distributors of LAVAZZA products in Belgium. The Respondent exclusively sells LAVAZZA products and uses the websites under the Domain Names solely to promote the LAVAZZA products.

16. Third, the Respondent contends that the Domain Names have been registered and are being used in good faith.

The registration of the Domain Names happened several years ago, the Complainant has always been aware of this and did not undertake legal actions until now. Accordingly the registrations happened in good faith.

The use is also in good faith since the Domain Names are only used to promote the sales of LAVAZZA as (exclusive) distributor.

17. To conclude, the Respondent fears that after the transfer of the Domain Names without further guarantees, the Respondent will no longer be duly presented as an (exclusive) LAVAZZA distributor, which would inevitably result in a substantial loss of sales, to the advantage of other distributors. This would be the final blow to what is left of the Respondent's exclusive distribution rights. On the Complainant's current website no clear and complete reference is made to the Respondent's business.

18. Finally, since as from 1 January 2018, both Parties will no longer be in a commercial relationship, the Respondent asks that if the transfer of the Domain Names is ordered, this only be effective as from 1 January 2018.

## **6. Discussion and findings**

19. Pursuant to Article 16.1 of the *CEPANI rules for domain name dispute resolution*, the third-party decider shall rule on domain name disputes with due regard for the Terms and conditions of domain name registrations under the ".be" domain operated by DNS BE ("*the DNS Policy*"), and the CEPANI rules for domain name dispute resolution.

Pursuant to Article 10b(1) of the DNS Policy, the Complainant must provide evidence of the following:

- " *the registrant's domain name is identical or confusingly similar to a trademark, a tradename, a social name or corporation name, a geographical designation, a name of origin, a designation of source, a personal name or name of a geographical entity in which the Complainant has rights; and*
- *the registrant has no rights or legitimate interests in the domain name; and*

- *the registrant's domain name has been registered or is being used in bad faith."*

### **6.1. Identical or similar to**

20. The domain name "lavazza.be" is identical to the Complainant's registered word marks LAVAZZA. The ".be" extension has no distinctive character within the domain name as it refers only to the geographical extension of the domain name.<sup>1</sup>

21. The domain name "lavazzablue.be" is certainly confusingly similar to the Complainant's figurative trademark LAVAZZA BLUE, since the word element LAVAZZA BLUE is the dominant element of the figurative trademark.<sup>2</sup> The mere fact that the trademark is a figurative trademark does not prevent the domain name from being similar to that figurative trademark.<sup>3</sup>

22. All the other Domain Names are confusingly similar to the trademark LAVAZZA as they reproduce the trademark in its entirety in combination with a generic word describing a product or service for which the LAVAZZA trademark has been registered, or which combination is often used by the Complainant in order to promote, market or indicate the products or services offered, namely:

- "coffee" is the generic name of the most important product sold by the Complainant;
- "capsules" refers to a way of packaging coffee, which is one of the product ranges offered by the Complainant;
- "shop" indicates a location where customers can purchase the Complainant's products;
- "concept" refers to the lay-out, trade dress and customer experience for a LAVAZZA shop.

The addition of the above generic terms does not distinguish the domain names from the trademarks and does not diminish the dominant and distinctive nature of the LAVAZZA element.<sup>4</sup> A (Belgian) Internet user using direct search will likely either search just for the website operated under the "lavazza.be" domain name or combine the word LAVAZZA with the product or service such user is looking for (e.g. "coffee", "capsules", "shop" or "concept"), using the .BE extension given the affiliation with the Belgian territory.

23. Accordingly, the first condition of article 10 b) (i) is satisfied.

### **6.2. Rights and legitimate interests**

24. According to Article 10 b)(1)(ii) of the DNS Policy, the Complainant has to prove that Respondent has no rights or legitimate interests in the disputed domain names.

---

<sup>1</sup> CEPANI, cases nr. 44082, 44076, 44025, 44290 and 44309.

<sup>2</sup> CEPANI, case nr. 44191.

<sup>3</sup> CEPANI, case nr. 44018.

<sup>4</sup> CEPANI, nr. 44309.

Considering the difficulty of proving such a negative fact, this burden of proof is considered to be satisfied when, taking into account all the facts of the case, the Complainant could credibly state that he is unaware of any reason or circumstance which could be indicative of such a right or legitimate interest.<sup>5</sup>

The Respondent does not prove that it has a right or a legitimate interest to the domain names based on the circumstances enumerated in paragraph 10.b)(3) of the DNS Policy.

25. In the present case, the Respondent is a distributor who uses the Domain Names to offer LAVAZZA products. The only issue is whether the Respondent's offerings can be characterized as "bona fide". According to the international case law developed under the Uniform Dispute Resolution Policy for ".com" and other domains, to be "bona fide", the offering by a distributor under a domain name consisting of the trademark of the distributed products must at the minimum meet the following requirements:<sup>6</sup>

- The Respondent must actually be offering the goods or services at issue.
- The Respondent must use the site to sell only the trademarked goods;
- The site must accurately disclose the registrant's relationship with the trademark owner, it may not, e.g., falsely suggest that it is the trademark owner or that the website is the official site, if, in fact, it is only one of many sales agents;
- The Respondent must not try to corner the market in all domain names, thus depriving the trademark owner of reflecting its own mark in a domain name.

When examining the criteria of the OKI DATA case, the Third-party decider comes to the conclusion that these criteria are met and there is no clear evidence of a lack of rights and legitimate interests.

26. It is not disputed that the Respondent is a reseller of the LAVAZZA products.

While it is true that the Complainant has not authorized the Respondent to register or use its trademarks as a domain name and that the agreement concluded by the Respondent with the Complainant's distributor DES in 1992 expressly stated that no rights to the trademarks and distinctive signs of the Complainant were granted to the distributor, it cannot be denied that the Respondent has been using the Domain Names for many years, to sell the LAVAZZA products on the Belgian market. The name "lavazza.be" has been registered since 13 December 2000, which is almost 17 years ago.

The Complainant may not have liked it, but it never initiated legal proceedings, neither before the courts, nor before CEPANI, against this and the other Domain Names, while continuing to do business with the Respondent during many years.

The Respondent contends that the Complainant was always aware of the fact that the Domain Names were registered and even made a link to them on its website.

---

<sup>5</sup> See inter alia CEPANI cases nr. 4064, 4030 and 4013.

<sup>6</sup> WIPO case nr. D2001-0903, okidataparts.com; See also WIPO 20 August 2004, D2004-0481, Porsche v. Del Fabbro Laurent ("porsche-buy.com"), WIPO 8 June 2005, D2005-0447 ("volvo-auto-body-parts-online.com"), and WIPO 28 January 2008, D2007-1524, NASCAR v. Racing Connection ("nascartours.com").

This is not accurate because the “link on the website” is actually the e-mail address provided by the Respondent, being [info@lavazza.be](mailto:info@lavazza.be). Nevertheless, the Complainant allowed this use of “Lavazza.be” in the e-mail address on its own website, which is not compatible with the allegation that the Respondent has no rights or legitimate interests in the disputed Domain Names.

27. Except for the domain name “lavazzacoffee.be”, which does not lead to a website, the disputed Domain Names are all pointing to a website where *only* LAVAZZA products are being offered for sale.

28. On those websites, the Complainant’s trademarks are used, but the Respondent mentions its capacity: it is an exclusive importer of LAVAZZA ESPRESSO POINT and an importer of LAVAZZA BLUE products. The Respondent does not create the false impression that the websites are operated by the trademark owner or that they are the official websites of the trademark owner.

29. Finally, the OKI DATA standard requires that the domain name owner does not corner the market. There is room for discussion here because the Respondent did not only register a single domain name to sell LAVAZZA products, but at least seven names which are covered by the current proceedings. Moreover, the Respondent has also registered other domain names in various Top-Level domains, including “lavazzablue.nl”, “lavazzaconcept.com”, “lavazzacapsule.com”, “lavazzacapsules.nl” and “lavazza-espresso-point.be”.

This criterion is not favourable for the Respondent but in the opinion of the Third-party decider it does not have enough weight to come to the conclusion that the Respondent does not have any right or legitimate interest in the Domain Names. It has become more and more common that undertakings register multiple domain names and the registration of seven domain names is as such not exceptional.

30. Given that the Respondent has been using the Domain Names for many years, and one domain name for almost 17 years, the third party decider comes to the conclusion that the Respondent has at least some legitimate interest.

As set out before, it is clear that both parties are involved in a serious dispute and that their long standing relationship will soon be over as the distribution agreement has been terminated with effect on 1 January 2018. It may well be that the Respondent will not be able to keep the “Lavazza.be” domain name and the other domain names, but at this point in time it seems to be unreasonable to use the CEPANI proceedings to claim the transfer the Domain Names before the distribution relationship has effectively come to an end.

As was already decided in the CEPANI case no. 44054, [gallup-europe.be](http://gallup-europe.be), it should be stressed that within the limited framework of the Rules and the Policy, it is not the task of the third-party decider to settle a complex dispute of which the Domain Names are only a part. For a complex dispute based on a distribution agreement that lasted several years, it seems more appropriate that the parties address the regular courts or arbitral tribunals.

In view of the above, the third-party decider holds that the Respondent has rights and legitimate interests in the disputed Domain Names. As the requirements of article 10, b, 1 of the Policy are cumulative, this finding in itself makes any discussion of bad faith on the part of the Licensee obsolete.

31. The second condition of article 10 b) (1) is not satisfied and the Complaint is dismissed.

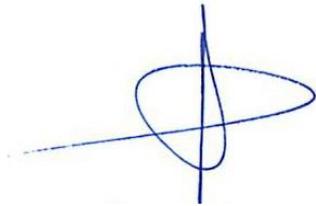
### 6.3. Registration or use in bad faith

32. Since the three conditions of article 10 b) (1) of the DNS Policy have to be fulfilled cumulatively and the second condition is not satisfied, the third condition does no longer need to be examined.

## 7. Decision

Consequently, pursuant to Article 10(e) of the *Terms and conditions of domain name registrations under the ".be" domain operated by DNS BE*, the Third-party decider hereby rules that the claim to transfer the registrations of the domain names “**lavazza.be**”; “**lavazzablue.be**”; “**lavazzacapsules.be**”; “**lavazzacoffee.be**”; “**lavazzaconcept.be**”; “**lavazzashop.be**” and “**shoplavazza.be**” is dismissed.

Brussels, 1 September 2017.



-----  
Tom Heremans  
The Third-party decider  
(signature)