

# The Boatman Capital Research



## AVZ Minerals: Experiencing A Chinese Burn?

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Ticker: AVZ.AU

Date: 20 May 2022

Price: AUD 0.78

Market Capitalisation: AUD2.5bn

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**We believe that AVZ Minerals is in the process of being outmanoeuvred by a group of powerful Chinese battery manufacturers, who are plotting to take control of the Manono lithium project.**

**We think that, at best, AVZ faces months or years of legal fights to block Zijin Mining and to claim shares from Dathomir Mining Resources. At worst, AVZ will lose control of Manono and be left with just 36% of the project.**

**We have obtained evidence that makes us think the likely outcome will be negative for AVZ.**

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## Executive Summary

AVZ Minerals (ASX: AVZ) owns a controlling interest in the Manono lithium deposit in the Democratic Republic of Congo (DRC). Manono is reportedly the world's largest lithium resource. AVZ claims that it currently owns 75% of Dathcom Mining, the local entity that holds the Manono exploration rights, with the remaining 25% held by Cominiere, a state-owned DRC miner. But on May 11<sup>th</sup>, AVZ voluntarily suspended its shares amid a growing dispute over how much of the Manono project the Australian company actually controls.

The Boatman Capital first published a report on AVZ in July 2019 raising concerns about the Manono deal. We highlighted several corruption red flags in the award of the Manono license to Dathcom and pointed out that the beneficiaries of the deal with AVZ were hidden behind opaque offshore structures. In December 2021, the NGO Global Witness published a report on the DRC lithium sector that also raised concerns about AVZ's involvement in the Manono project.

AVZ says that it exercised options to acquire 15% of Dathcom from Dathomir Mining Resources in 2021 for a total of \$20 million, which took its stake from 60% to 75%. But this is now disputed. Media reports suggest that a DRC court struck down the deal last December and cancelled AVZ's share purchase.

Cominiere, AVZ's partner, also believes the Dathomir deal was cancelled. Minutes from Cominiere's AGM in April state that "Dathomir had backed out of this sale". It cannot be good news for AVZ when its own (state-owned) partner believes it does not own these shares. While AVZ continues to assert ownership over 75% of the Manono project, Dathomir, Cominiere and the DRC courts appear to believe otherwise.

Cominiere's AGM also revealed that Dathomir owes it a 5% stake in the project – meaning that even if AVZ were able to acquire the Dathomir shares, one-third of them are claimed by its partner.

Separately, China's Zijin Mining has acquired a 15% stake Dathcom from Cominiere – shares that AVZ had been planning to buy in the future. AVZ says that the Zijin deal is invalid as it holds pre-emption rights over Cominiere's stake. We have obtained a copy of the contract between Zijin and Cominiere, which confirms the transaction has been signed and sealed at a price of \$33.4 million.

We believe that AVZ Minerals is in the process of being outmanoeuvred by a group of powerful Chinese battery manufacturers, who are plotting to take control of the Manono lithium project. The documents presented in this report (the Zijin-Cominiere contract; the

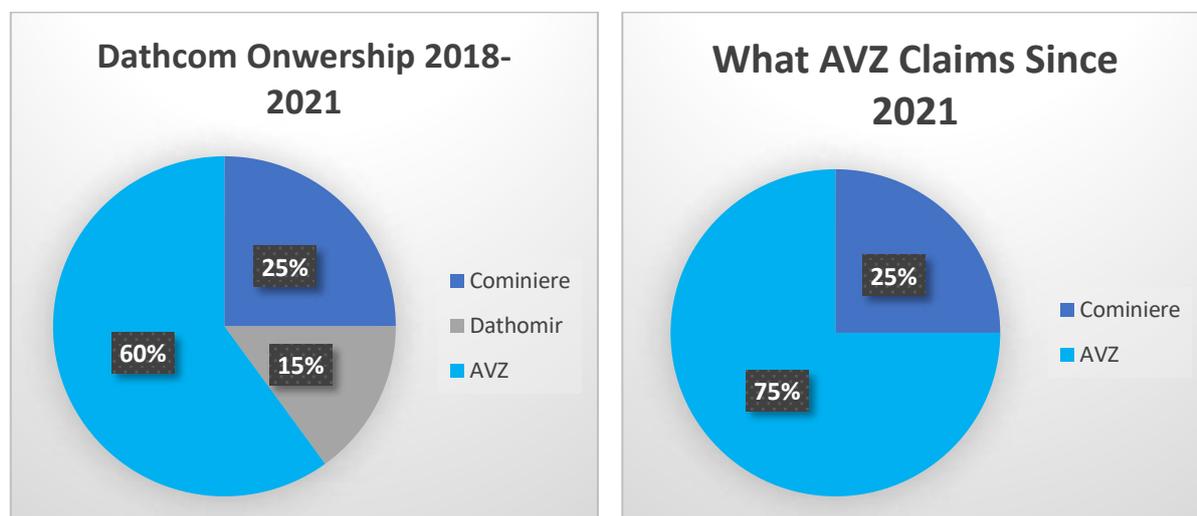
Dathomir-Cominiere loan agreement; and the Cominiere AGM minutes) suggest that investors are right to be concerned about this dispute.

We think that, at best, AVZ faces months or years of legal fights to block Zijin Mining and to claim shares from Dathomir Mining Resources. At worst, AVZ will lose control of Manono and be left with just 36% of the project. Based on the evidence presented in this report, we think the likely outcome will be negative for AVZ.

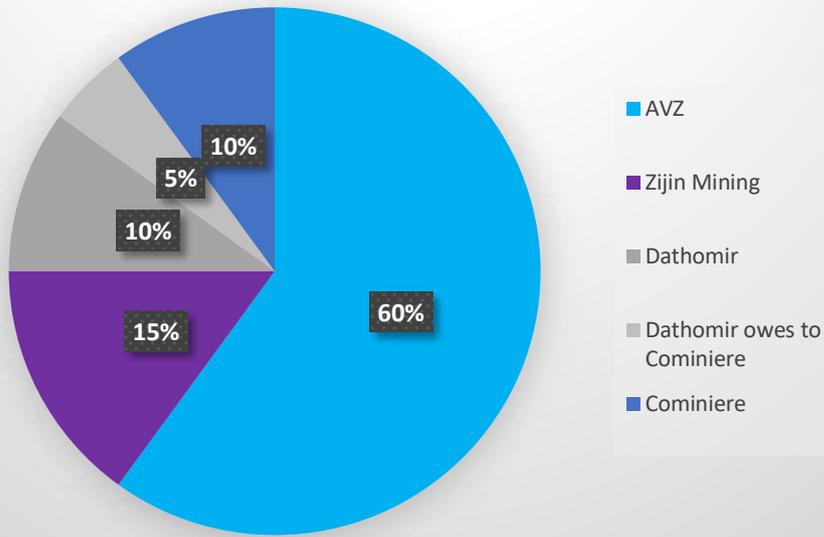
AVZ must have known about these issues for months, but the company does not appear to have made any disclosures regarding either dispute until May 4<sup>th</sup>. Neither does it appear that AVZ has told investors that 5% of the Dathomir stake may be owed to Cominiere.

The recent share price collapse and suspension of trading demonstrates that clarity on who owns Manono is materially significant and, therefore, we think that AVZ could be vulnerable to shareholder lawsuits if the company has previously failed to disclose these disputes.

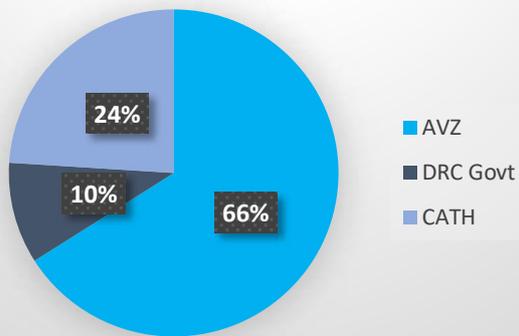
Finally, there is an element of poetic justice about this situation. AVZ can claim that the Zijin/Dathomir claims are vexatious, false and without merit but what did the company expect? AVZ benefited from what may have been a corrupt deal that stripped the former owner of Manono of its license. Now the Chinese and new DRC Government appear to be scheming to do the same again. Live by the sword, die by the sword.



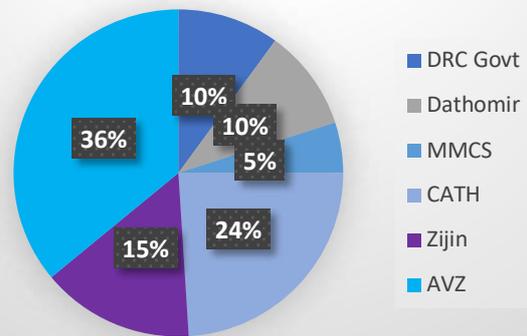
### What We Think The Current Ownership of Dathcom Is (Pre CATH Deal)



### What AVZ Thinks Will Happen In the Future



### What We Think Will Happen In The Future



*Copies of the relevant documents are available as an appendix.*

## Background

AVZ Minerals is an Australian-listed miner that is (currently) the majority owner of the world's largest lithium resource<sup>1</sup>. The Manono lithium mine in the Democratic Republic of Congo (DRC) has been estimated to hold a total resource of 401 million tonnes at a grade of 1.63% lithium oxide.

AVZ bought into the Manono project in 2016, buying a 60% stake in Dathcom Mining – a DRC-based company that holds the local exploration permit. The stake was bought from Dathomir Mining Resources, an opaque company that was owned via various offshore entities. The other partner in the Manono project was Cominiere, a state-owned miner.

The timeline of events leading to AVZ's acquisition of the Manono stake raised several red flags and, in a report published in July 2019, we questioned whether the license could have been obtained corruptly. The previous owner of the Manono license was stripped of it in 2016 and, within a couple of months, it had been given to the Dathcom/Dathomir partnership instead. At that point, Dathcom had existed for just two months and had no apparent mining/exploration expertise. Dathomir had existed for only a few months longer and also had no obvious mining expertise.

We were concerned that AVZ had proceeded with the Manono deal regardless of the corruption red flags.

Our original report is here:

<https://theboatmancapital.com/wp-content/uploads/2021/06/Boatman-Report-on-AVZ-Minerals-July-2019.pdf>

We called for an investigation into how the Manono license was awarded to Dathcom and Dathomir. We also asked AVZ to confirm the identity of Dathomir's ultimate beneficial owner (UBO) as we thought investors should know who was benefiting from the deal. We got no response from AVZ.

In December 2021, the NGO Global Witness published a report<sup>2</sup> on the DRC's lithium sector that highlighted environmental and corruption concerns. Global Witness referenced the Boatman's report and raised its own concerns about AVZ's involvement with Dathomir and Dathcom.

Global Witness wrote: "Because the ultimate beneficial owner of Dathomir Mining Resources is not publicly disclosed, it has been unclear who has ultimately benefited from payments made to the company by AVZ. In situations like these, the opaque ownership structure can raise supply chain risks, in particular because it is unclear who was ultimately receiving monies for payments linked to the company."

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<sup>1</sup> <https://www.australianmining.com.au/news/avz-confirms-manono-as-worlds-largest-lithium-resource/>

<sup>2</sup> <https://www.globalwitness.org/en/campaigns/natural-resource-governance/renewable-energy-at-what-cost-a-closer-look-at-drcs-nascent-lithium-sector/>

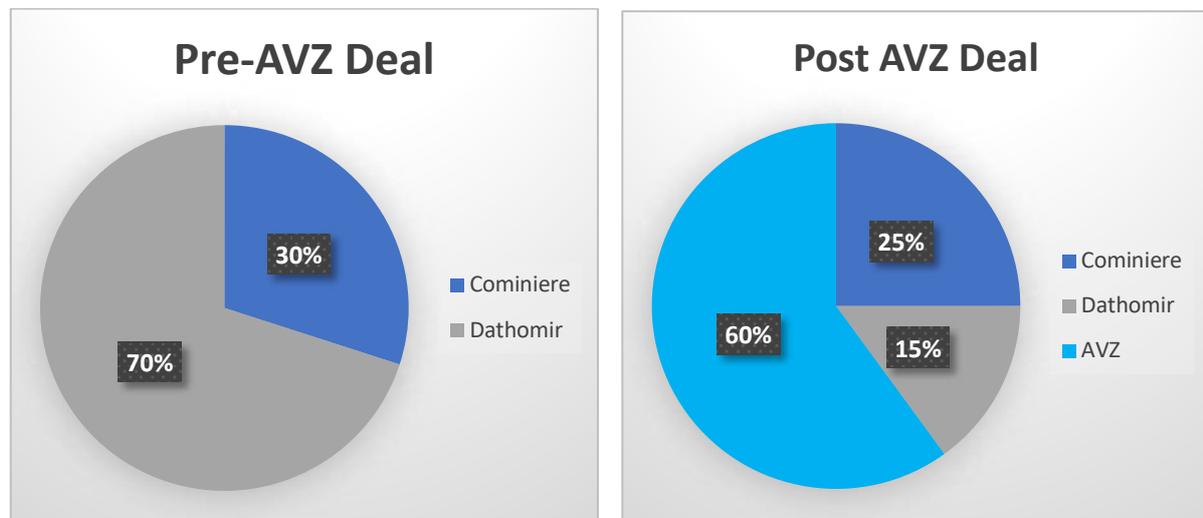
AVZ told Global Witness that it had found no adverse information about Dathomir’s owner and it had engaged in a due diligence process that found no “inappropriate links” to the regime of former DRC President Joseph Kabila.

Meanwhile, AVZ has continued to explore the Manono site and is developing plans to build a mine. The company’s share price has soared and, on May 4th, it confirmed a mining license had been granted. AVZ has also agreed a deal with Suzhou CATH Energy Technologies (CATH), a Chinese battery maker, which will pay \$240 million to acquire a 24% stake in Dathcom. The CATH deal is due to close by the end of May.

AVZ seemed to be making progress but, on May 11th, the company’s shares were voluntarily suspended following speculation that it could lose control of the Manono project.

### Who Owns Manono?

Dathcom Mining, the local DRC entity that owns rights to the Manono asset, was initially a 70:30 joint venture between Dathomir Mining Resources and Cominiere. After AVZ bought into the project the Australian company owned 60% of Dathcom; Cominiere 30%; and Dathomir 10%. This later changed with a 5% stake shifting from Cominiere to Dathomir so their respective stakes were 25% and 15% (this turned out to be a loan, more on that below).



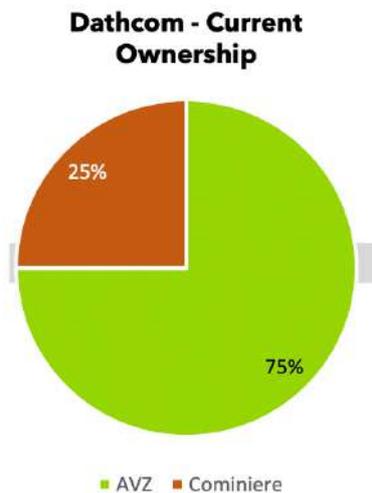
In July 2019, AVZ agreed an option deal with Dathomir to acquire a further 5% stake for \$5.5 million. It then agreed another option to acquire Dathomir’s remaining 10% for \$15.5 million. AVZ appears to have exercised that option in August/September 2021 and the company has since told investors that it owns 75% of the Manono project.

In its interim results<sup>3</sup>, the company said: “During the period, AVZ increased its direct interest in the Manono Project from 60% to 75% by AVZI exercising the two put options granted by Dathomir Mining Resources SARLU (“Dathomir”); thereby securing Dathomir’s minority 15% shareholding in Dathcom Mining SA (“Dathcom Mining”) for US\$20 million (~A\$27 million).

<sup>3</sup><https://static1.squarespace.com/static/5934d2ae6b8f5beeb5ba23f3/t/623173e91b46f840ab87d863/1647408114567/20220316+Half+Yearly+Report.pdf>

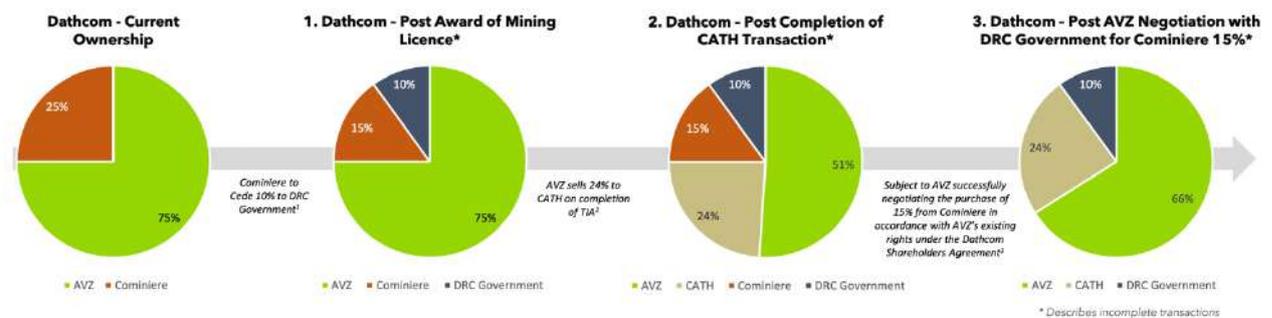
Replacement share certificates in Dathcom Mining have been awarded and registered at the courts in the DRC.”

The following chart is from an investor presentation<sup>4</sup> given by AVZ on May 10<sup>th</sup>, the day before its shares were voluntarily suspended.



Source: AVZ Minerals 1-2-1 Conference Presentation 10 May 2022

The presentation also outlines how AVZ expects future ownership of Manono to change. It anticipates Cominiere giving 10% to the DRC government; CATH taking up its 24% stake; and AVZ ultimately acquiring Cominiere’s remaining 15%. This scenario would give AVZ 66% of Dathcom; CATH 24%; and the DRC government 10%.



Source: AVZ Minerals 1-2-1 Conference Presentation 10 May 2022

But there are two problems with AVZ’s scenario...

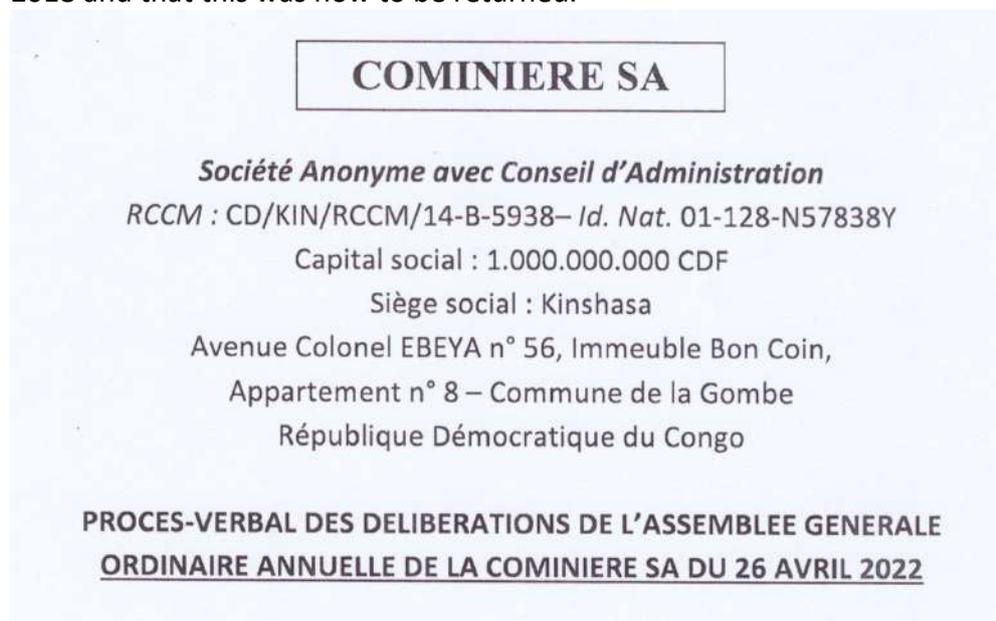
<sup>4</sup><https://static1.squarespace.com/static/5934d2ae6b8f5beeb5ba23f3/t/627aed9f85205544c612d1af/1652223399477/121+Conference+presentation.pdf>

## Problem 1: Dathomir Says It Hasn't Sold To AVZ

According to a story published by *Africa Intelligence*<sup>5</sup>, the Lubumbashi High Court issued a ruling in December that cancelled AVZ's share purchase from Dathomir. The court reportedly found that a share certificate created on 30 August 2021 showing AVZ owning 75% of Dathcom had been forged. The court ruled that this share certificate was to be destroyed.

Zijin Mining (more on them later) emphasised this point in its press release<sup>6</sup> of May 9<sup>th</sup>: "It has been learned that the transfer of a 15% interest in Dathcom between Dathomir and AVZ was terminated by a court of law upon Dathomir's application, due to significant defects in the original transaction process. Dathomir still holds good legal title to a 15% interest in Dathcom."

Cominiere, AVZ's partner in the Manono project, also appears to believe that the Dathomir deal was cancelled. The Boatman Capital has obtained the minutes for Cominiere's annual general meeting in April, which explain that Cominiere had loaned a 5% stake to Dathomir in 2018 and that this was now to be returned.



<sup>5</sup> [https://www.africaintelligence.com/mining-sector\\_courts-and-advisory/2022/04/26/several-paths-forward-for-giant-manono-lithium-project,109780529-evg](https://www.africaintelligence.com/mining-sector_courts-and-advisory/2022/04/26/several-paths-forward-for-giant-manono-lithium-project,109780529-evg)

<sup>6</sup> <https://www.zijinmining.com/news/118835.htm>

Président l'a rassuré en indiquant que le litige est né précisément sur un pourcentage qui comprenait aussi les 5% querellés avant que les actions ne soient vendues à AVZ. En d'autres termes, la vente des Actions à AVZ ne devait pas se faire sur le patrimoine querellé jusqu'au règlement du litige. Le Représentant a pris acte de cette précision qui leur échappait.

Par ailleurs, sur ces entrefaites, l'Assemblée a appris la malicieuse intention de DATHOMIR de céder 15% à un autre partenaire alors qu'il doit restituer à la COMINIÈRE les 5% lui prêtés en son temps. Le Directeur Général est intervenu pour préciser et assurer l'Assemblée Générale que DATHOMIR s'est rétracté sur cette vente.

Pour ce faire, l'Assemblée a approuvé ce règlement à l'amiable entre COMINIÈRE et MMC-S et a recommandé à la Direction Générale d'exiger de DATHOMIR, par tous les moyens, la restitution sans délai de 5% lui prêtés.

Translation: "The Assembly learned of the malicious intention of DATHOMIR to cede 15% to another partner when it must return to COMINIÈRE the 5% lent to it. The Managing Director intervened to clarify and assure the General Assembly that DATHOMIR had backed out of this sale."

The minutes show that this 5% stake was to be sold to MMCS, which ironically was the original Manono license holder who had it stripped under dubious circumstances.

We have independently confirmed that Cominiere did loan Dathomir the 5% stake in 2018. This is an extract from the contract:

paiement des honoraires dûs au Cabinet-conseil et les frais d'instance de l'arbitrage de la Chambre du Commerce International en contre partie du nantissement de 5% des actions de l'Emprunteur dans DATHCOM MINING SA.

Etant donné que la COMINIÈRE SA fonctionne à ce jour sans Conseil d'Administration, nous sollicitons la tenue d'une Assemblée Générale Extraordinaire des actionnaires pour consentir ce nantissement.

Nous vous prions d'agréer, Excellences, Madame et Monsieur les Ministres, l'expression de notre parfaite considération.



Athanase MWAMBA MISAO  
Directeur Général

In a statement<sup>7</sup> released on May 4th, AVZ makes reference to a decision by ‘Le Tribunal de Grande Instance’ on an application brought by Dathomir “regarding the validity of a share certificate and an extract of a shareholders’ registry from Dathcom”. AVZ has said that the Tribunal judgement is not valid for several reasons and the claim has been “pursued vexatiously and without foundation or merit”.

So, the current situation is that AVZ claims it owns Dathomir’s 15% shareholding in Manono but Dathomir appears to disagree and the transaction was reportedly voided by a DRC court. Separately, it appears that one-third of the Dathomir stake is actually owed to Cominiere.

Although the court ruling was reportedly in December, AVZ does not appear to have made any disclosures to shareholders about the dispute until May 4<sup>th</sup>. Neither does it appear that AVZ has told investors that 5% of the Dathomir stake may be owed to Cominiere.

While AVZ clearly believes it owns 75% of the Manono project, Dathomir, Cominiere and the DRC courts believe otherwise. This is a materially significant dispute and we think that investors should have been given more detail and earlier.

## **Problem 2: Zijin Has Bought 15% from Cominiere**

On 9 May 2022, Zijin Mining issued a press release<sup>8</sup> stating that it had acquired via a subsidiary a 15% stake in Dathcom and the Manono project from Cominiere. It said: “Following negotiations held between July and September 2021, COMINIÈRE agreed to transfer a 15% interest in Dathcom to Jincheng Mining, an affiliate of Zijin Mining, and a transfer agreement was signed.”

The Boatman Capital has obtained a copy of the transaction contract and it confirms that Zijin is paying \$33.4 million for the stake (which raises separate questions about AVZ’s valuation). The contract is signed by Athanase Mwamba Misao, director general of Cominiere.

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<sup>7</sup><https://static1.squarespace.com/static/5934d2ae6b8f5beeb5ba23f3/t/6271bda6b1d40863e8cab44/1651621287434/ASX+Annoucement+Decree+to+Award+Mining+Licence.pdf>

<sup>8</sup> <https://www.zijinmining.com/news/118835.htm>



**CONTRAT DE CESSION DES PARTS**  
**股份转让协议**

1. LA CONGOLAISE D'EXPLOITATION MINIERE, Société Anonyme, en abrégé, « COMINIÈRE SA » immatriculée au registre de commerce et de crédit mobilier de Kinshasa n°CD/KIN/RCCM/14-B-5938, numéro d'identification nationale 01-128-N57838Y, numéro Impôt A1113407L et ayant son siège social situé au n° 56 de l'avenue Colonel Ebeya, Immeuble bon coin, Appartement n° 8, Kinshasa-Gombe, ici représentée par Monsieur Athanase MWAMBA MISAO, Directeur Général ad intérim;

刚果矿业开发股份有限公司，简称“COMINIÈRE SA”，商业注册登记号为CD/KIN/RCCM/14-B-5938，国家鉴定号为01-128-N57838Y，税号为A1113407L。总部位于金沙萨贡贝区Colonel Ebeya大道56号，Bon coin大楼8号房，公司代表为总经理Athanase MWAMBA MISAO先生。

Ci-après dénommée « la Partie Cédante », d'une part.  
其为一方，以下简称“转让方”。

ET  
及

2. JIN CHENG MINING COMPANY LIMITED, filiale de ZIJIN MINING, immatriculée sous le numéro 1681367, ayant son siège social situé au Vista Corporate Services Centre, Wickhams Cay II, Road Town Tortola, VG 1110, HongKong, ici représentée par HUANG XIAOHONG, 金城矿业有限公司，紫金矿业子公司，公司注册编号为 1681367，注册地址为 Vista Corporate Services Centre, Wickhams Cay II, Road Town, Tortola, VG1110, 香港。代表人为黄晓红。

Ci-après dénommée : « la Partie Cessionnaire », d'autre part.  
其为另一方，以下简称“受让方”。

La COMINIÈRE SA et ZIJIN MINING sont collectivement dénommées les « parties », COMINIÈRE和紫金统称为“双方”。

IL EST PREALABLEMENT EXPOSE CE QUI SUIT :  
兹协议如下：



This deal would appear to scupper AVZ's plan, as detailed in its May 10<sup>th</sup> presentation shown above, to buy the Cominiere stake itself.

AVZ said on May 11th that Zijin was seeking arbitration at the International Chamber of Commerce in Paris (ICC) to be recognised as a shareholder of Dathcom. AVZ has said that any share transfer to Zijin would breach its pre-emptive rights and would therefore be invalid.

The company said<sup>9</sup>: “The request for arbitration is merely another attempt by Jin Cheng to press the allegation it has been ventilating in the media that it acquired a 15% shareholding in Dathcom from La Congolaise D'Exploitation Minière SA (Cominiere). As previously disclosed to ASX on 4 May 2021<sup>10</sup>, any purported transfer of the 15% interest to Jin Cheng would be a

<sup>9</sup><https://static1.squarespace.com/static/5934d2ae6b8f5beeb5ba23f3/t/627b2480275cfe67356d8e5a/1652237441827/11052022+Arbitration+request.pdf>

<sup>10</sup> Actually 2022

material breach of the pre-emptive rights contained in the existing Dathcom Shareholders Agreement, invalid and of no force or effect.”

Zijin has countered<sup>11</sup> that its deal was signed off by the DRC Ministry of Portfolio in September 2021, which said it was in compliance with any pre-emptive rights provisions. According to Zijin, AVZ has “refused to convene board meetings or shareholders’ meetings and filed two lawsuits” to block the deal.

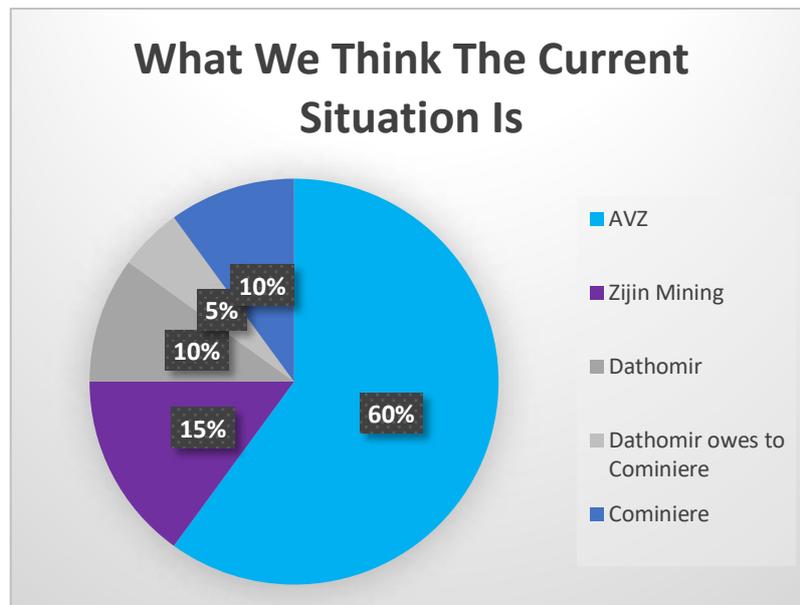
Zijin claims that in November 2021, the Commercial Court of Lubumbashi rejected AVZ’s complaint and approved the Zijin deal. The court rejected another complaint brought by AVZ in January 2022.

In summary, Cominiere’s sale of a 15% stake in the Manono project appears to be a done deal. If, as AVZ asserts, this breaches its pre-emptive rights it will be for AVZ to litigate this, although its attempts to do so in the DRC may already have failed.

Once again, it appears that AVZ failed to mention this materially significant dispute to its investors. It must have known about this issue since at least last September and has engaged in litigation (and apparently lost) without, it seems, making a disclosure to shareholders until May 2022.

### Who Will Own Manono?

If we assume Zijin Mining owns 15% of Dathcom and Dathomir has not sold to AVZ, this is what the current situation looks like (before the CATH deal completes).

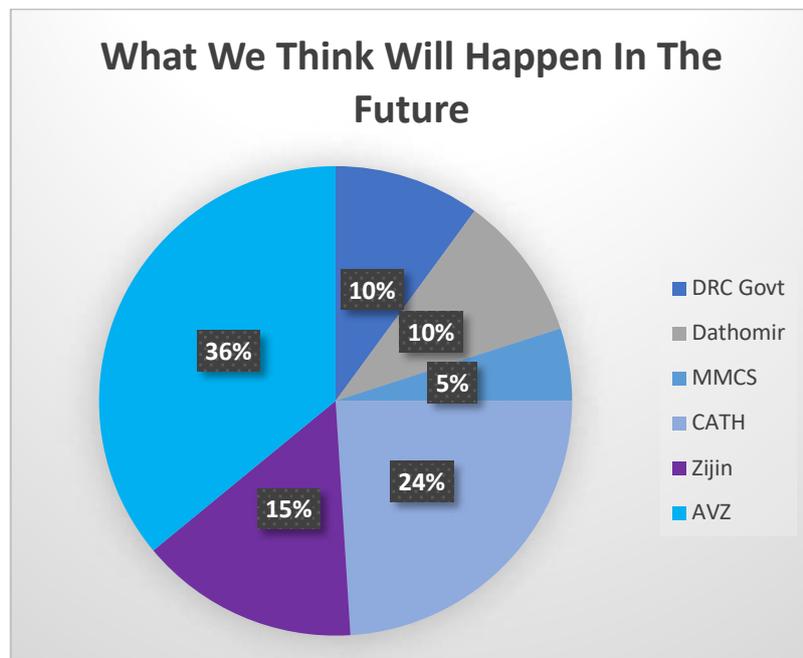


AVZ has repeatedly said that it owns the Dathomir stake in Dathcom and that Zijin has no rights to the Cominiere stake. But it looks to us that AVZ is on the back foot in this situation.

<sup>11</sup> <https://www.zijinmining.com/news/118835.htm>

The Zijin deal is already inked and Dathomir is reportedly winning the battle in the DRC. We think that, at best, AVZ faces months or years of legal fights to block Zijin Mining and to claim shares from Dathomir Mining Resources. At worst, AVZ will lose control of the Manono project.

If this does play out negatively for AVZ, this is what the shareholding structure will look like:



AVZ would be left with just 36% of the project. As Zijin rather ominously notes in its press release: “AVZ will no longer have an absolute controlling interest in Dathcom.”

### The Chinese Burn

The original Dathcom/Manono deal was structured by Cong Mao Huai (aka Simon Cong). Cong was the representative of Dathomir Mining Resources and he features prominently in the Global Witness lithium report and recent investigative journalism coverage of the DRC<sup>12</sup>.

Cong is believed to have arranged for Zhejiang Huayou Cobalt to make a large investment in AVZ in 2017 and the Chinese battery maker currently owns a 6.27% stake<sup>13</sup>. Suzhou Group, which includes Suzhou CATH Energy Technologies (CATH), owns a further 7.29% of AVZ and is in the process of acquiring 24% of the Manono project. Huayou and CATH therefore hold nearly 14% of AVZ’s shares directly and are therefore able to exert pressure and influence from within the company.

<sup>12</sup> <https://www.bloomberg.com/news/features/2021-11-28/africa-s-biggest-data-leak-reveals-china-money-role-in-kabila-s-congo-looting>  
<sup>13</sup> <https://static1.squarespace.com/static/5934d2ae6b8f5beeb5ba23f3/t/622ee5e5144cda6e419d3f74/1647240678082/202202+-+AVZ+Top+20+Shareholder+28+February+2022.pdf>

The CATH deal was first announced last September, which was the same month that Zijin Mining agreed to buy Cominiere's 15% stake. CATH is owned by Pei Zhenhua and Contemporary Amperex Technology Co. Limited (CATL), whose chairman is Zeng Yuqun. Yuqun is rumoured to have invested in other DRC ventures put together by Cong Mao Huai such as Minocom Mining, in which Huayou Cobalt is also thought to be a partner.

Meanwhile, Huayou Cobalt's vice chairman is George Fang<sup>14</sup>, who was previously executive director at Zijin Mining.

There are numerous other connections between the various Chinese companies currently circling the Manono asset.

We think it is likely the various Chinese players are coordinating their actions. And we suspect that AVZ is being deliberately squeezed out of the Manono project.

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<sup>14</sup> <https://www.bloomberg.com/profile/person/19244471>