

ADMINISTRATIVE PANEL DECISION

Interparfums Suisse Sàrl v. Gerald Gigi, Young Co
Case No. D2024-1091

1. The Parties

The Complainant is Interparfums Suisse Sàrl, Switzerland internally represented.

The Respondent is Gerald Gigi, Young Co, France.

2. The Domain Names and Registrar

The disputed domain names <lanvinfragrance.com> and <lanvinfragrances.com> are registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 12, 2024. On March 13, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On March 13, 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 (Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 14, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on March 18, 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 the Respondent of the Complaint, and the proceedings commenced on March 19, 2024. In accordance with the Rules, paragraph 5, the due date for Response was April 8, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 10, 2024.

The Center appointed Olga Zalomiy as the sole panelist in this matter on April 18, 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

The Complainant is a Swiss perfume maker and distributor who acquired the LANVIN trademarks from the LANVIN French fashion house in 2007. The Complainant owns numerous trademark registrations for the LANVIN mark worldwide, such as:

- United States of America registration No. 556672 for the LANVIN mark, registered on March 25, 1952;
- French registration No. 1328275 for the LANVIN mark, registered on October 25, 1985;
- International Trademark registration No. 352756 for the LANVIN mark, registered on January 24, 1969.

The Respondent registered the disputed domain names on January 27, 2024. He used false contact information for registration of the disputed domain names. The disputed domain names direct to parked web pages comprised of Pay-Per-Click ("PPC") links referring to perfumes for women and men that direct to third party websites selling competing products.

5. Parties' Contentions

A. Complainant

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

Notably, the Complainant contends that disputed domain names are confusingly similar to the Complainant's trademark since they reproduce the LANVIN trademark in its entirety. The Complainant argues that the addition of the words "fragrance" and "fragrances" does not detract from the confusing similarity between the mark and the disputed domain names and instead, increases it.

The Complainant contends that the Respondent has not rights or legitimate interests in the disputed domain names because the Complainant had never granted any license or authorization to the Respondent that would allow him to use its trademark in the disputed domain names. The Complainant submits that the disputed domain names direct to websites displaying Pay-Per Click links relating to perfumes for men and women. The Complainant alleges that the Respondent is not an authorized reseller of the Complainant's goods because the websites under the disputed domain names display links to third-party websites selling perfumes from various brand holders and that there is no disclosure of the lack of relationship between the Complainant and the Respondent on the websites.

The Complainant submits that the disputed domain names were registered and are being used in bad faith because the registration of the disputed domain names prevented the Complainant from using its trademark in the corresponding domain names. The Complainant argues that the LANVIN trademark has an exclusive connection to perfumes and cosmetics and has limited utility as a common conveyer of information. The Complainant contends that the disputed domain names direct to websites displaying Pay-Per-Click links relating to perfumery, women, women perfumery and perfume gift sets for women and men and direct users to third party websites that sell competing products, which creates a likelihood of confusion with the Complainant's trademark and indicates that the Respondent potentially derives revenue from such use of the disputed domain names. The Complainant argues that based on the above, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to the websites under the disputed domain names. The Complainant contends that by virtue of the LANVIN trademark extensive and longstanding use, the Respondent must have been aware of the Complainant's trademarks at the time of the registration of the disputed domain names.

B. Respondent

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

6. Discussion and Findings

Pursuant to paragraph 4(a) of the Policy, to succeed in this proceeding, the Complainant must prove each of the following elements with respect to each of the disputed domain names:

- (i) the disputed domain names are 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 names; and
- (iii) disputed domain names have been registered and are being used in bad faith.

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 disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (["WIPO Overview 3.0"](#)), section 1.7.

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.

The Panel finds the mark is recognizable within the disputed domain names. Accordingly, the disputed domain names are confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7. The inclusion of the generic Top-Level Domain ("gTLD") ".com" is typically disregarded in the context of the confusing similarity assessment, being a technical requirement of registration. [WIPO Overview 3.0](#), section 1.11.

Although the addition of other terms here, "fragrance" and "fragrances" respectively, may bear on assessment of the second and third elements, the Panel finds the addition of such terms 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 finds 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 the 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.

The evidence on record shows that the Respondent is not commonly known by any of the disputed domain names. The Complainant did not permit the Respondent to use its LANVIN trademark in the disputed domain names. Nor is the Respondent making a legitimate noncommercial or fair use of the disputed domain names because the disputed domain names direct to websites hosting Pay-Per-Click links, so it is likely that the Respondent profits from its use of the disputed domain names.

It is well-established that “the use of a domain name to host a parked page comprising PPC links does not represent a bona fide offering where such links compete with or capitalize on the reputation and goodwill of the complainant’s mark or otherwise mislead Internet users”. [WIPO Overview 3.0](#), section 2.9. Here, the Respondent used to use the disputed domain names to direct to parked pages comprised of Pay-Per-Click links of the Complainant’s competitors. Therefore, the Respondent did not use the disputed domain names in connection with a bona fide offering of goods or services.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed 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 disputed domain names such as those enumerated in the Policy or otherwise.

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 the present case, the Panel notes that the Respondent registered the disputed domain names that incorporate the Complainant’s mark and words “fragrance” or “fragrances” that describe the Complainant’s products to direct to websites that display Pay-Per-Click links relating to competing products. The fact that the Complainant’s mark was registered in France, where the Respondent is purportedly located, almost 40 years before the Respondent registered the disputed domain names, makes it implausible that the Respondent did not know about the Complainant’s mark at the time of the disputed domain name’s registration. It is likely that the Respondent knew about the Complainant and its trademarks and registered the disputed domain names with the purpose of trading on the Complainant’s reputation. Such registration is in bad faith.

The UDRP establishes that, for purposes of paragraph 4(a)(iii), “bad faith” registration and use of a domain name can be established by a showing of circumstances indicating that the respondent is using the domain name to intentionally attempt to attract, for commercial gain, Internet users to the respondent’s website or other online location, by creating a likelihood of confusion with the complainant’s mark as to source, sponsorship, affiliation or endorsement of the respondent’s website or location, or of a product or service on the respondent’s website or location. See Policy, paragraph 4(b)(iv). Here, the Respondent used the disputed domain names to direct to Pay-Per-Click links that directed users to third-party websites offering competing products for sale. It is likely that the Respondent received some financial gain from such use of the disputed domain names.

While the Respondent may have not placed the Pay-Per-Click links on the websites associated with the disputed domain names, it is well-established among UDRP panelist that “ a respondent cannot disclaim responsibility for content appearing on the website associated with its domain name...Neither the fact that such links are generated by a third party such as a registrar or auction platform (or their affiliate), nor the fact that the respondent itself may not have directly profited, would by itself prevent a finding of bad faith. “ [WIPO Overview 3.0](#), section 3.5. Therefore, bad faith registration and use have been established.

The Panel finds that the 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 <lanvinfragrance.com> and <lanvinfragrances.com> be transferred to the Complainant.

/Olga Zalomiy/

Olga Zalomiy

Sole Panelist

Date: May 2, 2024