

## **ADMINISTRATIVE PANEL DECISION**

Les Parfumeries Fragonard v. Nawaf Hariri, Salla  
Case No. D2022-0192

### **1. The Parties**

The Complainant is Les Parfumeries Fragonard, France, represented by Inlex IP Expertise, France.

The Respondent is Nawaf Hariri, Salla, Saudi Arabia.

### **2. The Domain Name and Registrar**

The disputed domain name <bringfragonardsa.com> is registered with Name.com, Inc. (Name.com LLC) (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 20, 2022. On January 21, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 25, 2022, the Registrar 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 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 February 8, 2022. In accordance with the Rules, paragraph 5, the due date for Response was February 28, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 14, 2022.

The Center appointed William F. Hamilton as the sole panelist in this matter on March 16, 2022. 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, a French company based in Grasse, France, manufactures and sells perfumery and cosmetic products.

The Complainant's operations date back to the 17th century. The Complainant sells its perfumes and cosmetic products in numerous stores and corners around the whole world. In addition, the Complainant's products are also sold by mail-order and online on its official website store (*Les Parfumeries Fragonard v. Jean-Claude Maitre*, WIPO Case No. [D2020-0709](#); *Les Parfumeries Fragonard v. Sunny Elemba*, WIPO Case No. [D2020-1648](#)).

The Complainant owns a large portfolio of registered trademarks for the mark FRAGONARD (the "Mark") including, *inter alia*, International Trademark Registration No. 312110 registered on April 15, 1966; French Trademark Registration No. 1327342 (registered on October 18, 1985); and United States of America Trademark Registration No. 2026820 (registered on December 31, 1996).

The Complainant owns the <fragonard.com> domain name, which resolves to its official website.

The disputed domain name was registered on December 28, 2021. The disputed domain name resolves to a website purportedly offering various perfumes and cosmetic products for sale including products bearing the same names at the Complainant's products including product images from the Complainant's website.

#### **5. Parties' Contentions**

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

The Complainant asserts the disputed domain name is confusingly similar to the Mark because the disputed domain name is composed by merely adding the word "bring" as a prefix and the characters "sa" as a suffix to the Mark.

The Complainant asserts that the Complainant never authorized the Respondent to use the disputed domain name, that the Respondent is not generally known by the disputed domain name, and that the Respondent has never engaged in any *bona fide* commercial activity in connection with the disputed domain name.

The Complainant asserts that the Respondent has registered and used the disputed domain name in bad faith in full knowledge of the Complainants' Mark to attract unsuspecting Internet users to the Respondent's website for commercial gain.

##### **B. Respondent**

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

#### **6. Discussion and Findings**

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

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

## A. Identical or Confusingly Similar

The Panel finds that the disputed domain name is confusingly similar to the Complainant's Mark.

The disputed domain name is composed by adding the prefix "bring" and the suffix "sa" (presumably standing for Saudi Arabia) to the Complainant's Mark. A domain name which wholly incorporates a complainant's registered mark is sufficient to establish confusingly similarity for the purposes of the Policy when, as here, the Mark is a clearly recognizable within the disputed domain name notwithstanding the addition of other terms or characters as a prefix and/or suffix, which does not prevent a finding of confusing similarity. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Overview 3.0"), section 1.8 ("where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographic, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element"); *Regeneron Pharmaceuticals, Inc. v. Registration Private, Domains by Proxy, LLC / Regeneron Careers*, WIPO Case No. [D2017-0013](#); *Bombas LLC v. Domain Administrator, See PrivacyGuardian.org / Maryellen J Dillard, Maryellen Dillard*, WIPO Case No. [D2021-0609](#).

The generic Top-Level Domain ("gTLD") of the disputed domain name, in this case ".com", is disregarded for the purposes of assessment under the first element, as it is viewed as a standard registration requirement. See [WIPO Overview 3.0](#), section 1.11.1; *Monster Energy Company, a Delaware Corporation v. J.H.M. den Ouden*, WIPO Case No. [D2016-1759](#); *International Business Machines Corporation v. Sledge, Inc. / Frank Sledge*, WIPO Case No. [D2014-0581](#).

The Complainant has met its burden under paragraph 4(a)(i) of the Policy.

## B. Rights or Legitimate Interests

The Complainant has specifically disavowed providing the Respondent with permission to use the disputed domain name or the Mark. The Respondent is not affiliated with the Complainant in any way and does not have any business relationship with the Complainant. There is no evidence that the Respondent has conducted any *bona fide* business under the disputed domain name or is commonly known by the disputed domain name. *Compagnie de Saint Gobain v. Com-Union Corp.*, WIPO Case No. [D2000-0020](#).

The Complainant has thus established a *prima facie* case in its favor, which shifts the burden of production on this point to the Respondent. The Respondent, however, has failed to come forth with any evidence showing any rights or legitimate interests in the disputed domain name.

Furthermore, the nature of the disputed domain name, which includes the entirety of the Mark plus the dictionary word "bring" suggesting that the disputed domain name may resolve to a website offering the Complainant's products and characters "sa" most likely referring to "Saudi Arabia", carries a risk of implied affiliation. See [WIPO Overview 3.0](#), section 2.5.1. The prominent placement of the Complainant's entire Mark in the disputed domain name strongly suggests that the disputed domain name may resolve to a website related to the Complainant. Additionally, the disputed domain name resolves to a website featuring the Complainant's Mark, the Complainant's images of its products, and products described with names identical to the Complainant's products without any accurate and prominent disclaimer regarding the relationship between the Respondent and the Complainant.

The facts and circumstances presented to the Panel demonstrate that the Respondent does not have any rights or legitimate interests in the disputed domain name.

### C. Registered and Used in Bad Faith

Under paragraph 4(b) of the Policy, bad faith may be established by any one of the following scenarios:

- (i) circumstances indicating that the respondent has registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of the respondent's documented out-of-pocket costs directly related to the domain name; or
- (ii) the respondent has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct; or
- (iii) the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with the complainant's mark as to the 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.

Common sense compels the conclusion that the Respondent was aware of the Complainant's Mark when registering the disputed domain name. The disputed domain name resolves to the website featuring the Complainant's Mark, the names of the Complainant's products, and images of the Complainant's products. The dictionary word "bring" in the disputed domain name suggests that the disputed domain name may resolve to a website offering the Complainant's Mark branded products and is further evidence that the Respondent was aware of the Complainant's rights and interests in the Mark when registering the disputed domain name. It strains credulity to believe that the Respondent willy-nilly invented the Mark, then by happenstance named its products with identical names to the Complainant's products, and next somehow found images of the Complainant's products floating and untethered on the Internet.

Even if one were to accept the unbelievable proposition that the Respondent was unaware of the Mark, willful blindness is no excuse and does not avoid a finding of bad faith registration and use. *Instagram LLC v. Contact Privacy Inc. / Sercan Lider*, WIPO Case No. [D2019-0419](#). A simple Internet search, normally undertaken before registering a domain name, would have disclosed the Complainant's Mark.

Noting the composition of the disputed domain name, it is difficult to conceive of any use that the Respondent might make of the disputed domain name without the Complainant's consent that would not involve bad faith. *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#); *Verner Panton Design v. Fontana di Luce Corp*, WIPO Case No. [D2012-1909](#) (where the reputation of a complainant in a given mark is significant and the mark bears strong similarities to the disputed domain name, the likelihood of confusion is such that bad faith may be inferred); *DPDgroup International Services GmbH & Co. KG v. Wise One, Wilson TECH*, WIPO Case No. [D2021-0109](#); *Monster Energy Company v. PrivacyDotLink Customer 116709 / Ferdinand Nikolaus Kronschnabl*, WIPO Case No. [D2016-1335](#). In fact, the disputed domain name resolves to a website purportedly offering various perfumes and cosmetic products for sale including products bearing the same names as the Complainant's products. Such registration and use of the disputed domain name constitutes bad faith pursuant to paragraph 4(b)(iv) of the Policy.

Additionally, under the circumstances of this case, an adverse inference may be drawn from the Respondent's failure to take part in the present proceeding, and the Respondent's prior history of improper domain name registrations. *Les Parfumeries Fragonard v. Nawaf Hariri, Salla*, WIPO Case No. [D2021-2454](#).

The Complainant has met its burden under paragraph 4(a)(iii) 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 name <bringfragonardsa.com> be transferred to the Complainant.

/William F. Hamilton/

**William F. Hamilton**

Sole Panelist

Date: March 30, 2022