

ADMINISTRATIVE PANEL DECISION

Les Parfumeries Fragonard v. Nawaf Hariri, Salla
Case No. D2022-1887

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 <fragonardbringer.com> (the “Disputed Domain Name”) 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 May 25, 2022. On May 28, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On May 29, 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 June 1, 2022. In accordance with the Rules, paragraph 5, the due date for Response was June 21, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 22, 2022.

The Center appointed Nicholas Weston as the sole panelist in this matter on June 30, 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 is a company incorporated under the laws of France that has, since 1926, operated a business manufacturing and selling perfumes and cosmetics internationally. The Complainant holds registrations for the trademark FRAGONARD in numerous jurisdictions, including, for example: International Trademark Registration No. 312110 for FRAGONARD, registered on April 15, 1966.

The Complainant owns numerous domain names that incorporate its trademark, including <fragonard.com> registered on July 9, 2006.

The Respondent registered the Disputed Domain Name <fragonardbringer.com> on May 7, 2022. The Disputed Domain Name resolves to a website which offers for sale FRAGONARD branded products.

5. Parties' Contentions

A. Complainant

The Complainant cites numerous trademark registrations in France and internationally for the mark FRAGONARD as *prima facie* evidence of ownership.

The Complainant submits that its rights in the mark FRAGONARD predate the Respondent's registration of the Disputed Domain Name. It submits that the Disputed Domain Name is confusingly similar to its trademark, because the Disputed Domain Name incorporates in its entirety the FRAGONARD trademark and that the the addition of the word "bringer", or the addition of the generic Top-Level Domain ("gTLD") ".com", does not prevent a finding of confusing similarity.

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name because it resolved to a webpage displaying the Complainant's trademark and submits that "there is no business or legal relationship between the Complainant and the Respondent. The Complainant has neither authorized nor licensed the Respondent to use its trademarks in any way."

Finally, the Complainant alleges that the registration and use of the Disputed Domain Name was, and currently is, in bad faith, contrary to the Policy and Rules and submits that given "the Complainant's trademark FRAGONARD is well-known", the Respondent knew or should have known of the mark. The Complainant also contends that "the Respondent uses the Complainant's trademarks, logo, and pictures" which is further evidence of bad faith use.

B. Respondent

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

6. Discussion and Findings

Under paragraph 4(a) of the Policy, the Complainant has the burden of proving the following:

(i) that the Disputed Domain Name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and

- (ii) that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name; and
- (iii) that the Disputed Domain Name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Complainant has produced sufficient evidence to demonstrate that it has registered trademark rights in the mark FRAGONARD in numerous jurisdictions including France. The propriety of a domain name registration may be questioned by comparing it to a trademark registered in any country (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.2.1).

Turning to whether the Disputed Domain Name is identical or confusingly similar to the FRAGONARD trademark, the Panel observes that the Disputed Domain Name comprises: (a) an exact reproduction of the Complainant's trademark FRAGONARD; (b) with the additional word "bringer"; (c) followed by the gTLD ".com".

It is well established that the gTLD used as technical part of a domain name may be disregarded. (See section 1.11 of the [WIPO Overview 3.0](#)). The relevant comparison to be made is with the Second-Level portion of the Disputed Domain Name, specifically: "fragonardbringer".

It is also well established that in cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing under the first element (see [WIPO Overview 3.0](#), section 1.7).

This Panel notes the panel's observation in *Les Parfumeries Fragonard v. Nawaf Hariri, Salla*, WIPO Case No. [D2021-2454](#), that: "the term 'bring' does not prevent a finding of confusing similarity with the Trademarks" and finds that the observation is equally apt to the word "bringer" used by the Respondent in the Disputed Domain Name (see [WIPO Overview 3.0](#), section 1.8).

The Panel finds that the Complainant has established paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy lists the ways that the Respondent may demonstrate rights or legitimate interests in the Disputed Domain Name. The Policy also places the burden on the Complainant to establish the absence of the Respondent's rights or legitimate interests in the Disputed Domain Name. Because of the inherent difficulties in proving a negative, the consensus view is that the Complainant need only put forward a *prima facie* case that the Respondent lacks rights or legitimate interests. The burden of production then shifts to the Respondent to rebut that *prima facie* case (see [WIPO Overview 3.0](#), section 2.1).

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name because "there is no business or legal relationship between the Complainant and the Respondent. The Complainant has neither authorized nor licensed the Respondent to use its trademarks in any way".

The Respondent is not commonly known by the Disputed Domain Name, and the website does not accurately and prominently disclose the registrant's relationship with the trademark holder, a requirement of the test recognized by numerous panels set out in *Oki Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#) (see [WIPO Overview 3.0](#), section 2.8.1).

The Panel is satisfied that the Complainant has put forward a *prima facie* case that the Respondent lacks rights or legitimate interests. In the absence of a response, this Panel finds that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name.

The Panel finds for the Complainant on the second element of the Policy.

C. Registered and Used in Bad Faith

The third element of the Policy requires that the complainant must also demonstrate that the Disputed Domain Name has been registered and used in bad faith. Paragraph 4(b) of the Policy sets out certain circumstances to be construed as evidence of both of these conjunctive requirements.

The Panel finds that the evidence in the case shows the Respondent registered and has used the Disputed Domain Name in bad faith.

On the issue of registration, taking into account the composition of the Disputed Domain Name and the content of the website it resolves to, the Panel is satisfied that the Respondent knew of the Complainant's trademark FRAGONARD when it registered the Disputed Domain Name (see *Les Parfumeries Fragonard v. Thanh Van Pham*, WIPO Case No. [D2020-2920](#) ("The Respondent registered the disputed domain name long after the Complainant first used and registered its FRAGONARD mark, and long after the mark had become well recognized around the world. Inclusion of the Complainant's precise mark in the disputed domain name suggests that the Respondent was aware of the Complainant's prior rights"); *Les Parfumeries Fragonard v. Yasutaka Sakatani*, WIPO Case No. [D2021-0792](#) ("The Complainant's trademark is a well-known trademark as established by prior UDRP decisions. It had been registered for more than 50 years by the time the disputed domain name was registered").

In addition, the gap of several years between registration of the Complainant's trademark and the Respondent's registration of the Disputed Domain Name, along with the composition of the Disputed Domain Name (containing the Complainant's trademark in its entirety) in the circumstances of this case is a further indicator of bad faith. (See *Asian World of Martial Arts Inc. v. Texas International Property Associates*, WIPO Case No. [D2007-1415](#)). In this case, the Complainant's rights in its trademark predate any rights that could possibly flow from the Respondent's registration by more than 55 years.

On the issue of use, the Complainant's evidence is that the Disputed Domain Name previously resolved to a website that displays the Complainant's trademark and, apparently, its products. This Panel accepts the Complainant's evidence the Disputed Domain Name resolves to a website displaying the Complainant's trademark as evidence that the Respondent was well aware of the Complainant's trademark FRAGONARD when registering the Disputed Domain Name and has used it in bad faith.

Further, the Panel notes that the Respondent has been found to have registered and used domain names in bad faith in multiple previous successful complaints under the Policy involving the same Complainant's trademark. In the absence of a reply, this Panel infers that the Respondent has deliberately targeted the Complainant in bad faith.

In the absence of any evidence to the contrary, this Panel finds that the Respondent has used the Complainant's trademark FRAGONARD for the Disputed Domain Name without the Complainant's consent or authorization, for the purpose of capitalizing on the reputation of the trademark to infringe upon the Complainant's rights.

Accordingly, the Panel finds that the Complainant has satisfied the requirements of 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 <fragonardbringer.com> be transferred to the Complainant.

/Nicholas Weston/
Nicholas Weston
Sole Panelist
Date: July 7, 2022