

## **ADMINISTRATIVE PANEL DECISION**

C F E B Sisley v. Nawaf Hariri, Salla Application Company  
Case No. D2023-5154

### **1. The Parties**

The Complainant is C F E B Sisley, France, represented by Fidal, France.

The Respondent is Nawaf Hariri, Salla Application Company, Saudi Arabia.

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

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

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 11, 2023. On December 15, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 19, 2023, 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 January 8, 2024. In accordance with the Rules, paragraph 5, the due date for Response was January 28, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 29, 2024.

The Center appointed Catherine Slater as the sole panelist in this matter on January 31, 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 French company incorporated in 1972. It manufactures and distributes (all around the world) cosmetics, perfumes and hair products under the trade mark SISLEY.

The Complainant owns a large portfolio of trade marks in many jurisdictions which are, or incorporate, the term SISLEY. That portfolio includes:

- International Registration 385946 for SISLEY registered on February 10, 1972; and
- French Registration 1199308 for SISLEY registered on August 20, 1982.

The Complainant registered the domain name <sisley-paris.com> in 2000 and uses it for the promotion of its business and sale of its products. The Complainant also owns a large portfolio of other domain names that incorporate the mark SISLEY.

The Respondent registered the disputed domain name on November 16, 2022. The disputed domain name resolves to a website in Arabic selling perfumes. On October 23, 2023, the Complainant wrote a cease-and-desist letter to the Respondent. The delivery of that letter was confirmed and there was no reply by the Respondent. Prior to the letter, the website included perfumes bearing the trade mark SISLEY. The Complainant says these were counterfeit or, at least, unauthorized goods. After receipt of the letter, all perfumes bearing the trade mark SISLEY disappeared from the website.

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

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

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

The Complainant contends that the disputed domain name is similar to its trade mark and in particular that:

- the Complainant's trade mark registrations pre-date the registration of the disputed domain name;
- the Complainant's trade mark SISLEY is included in the disputed domain name in its entirety with the additional term "one";
- the word "one" is merely a descriptive term that does not distinguish the disputed domain name from the Complainant's trade mark or change the overall impression that the disputed domain name is related to SISLEY; and
- consumers would understand the combination of the terms "sisley" and "one" in a domain name, as being the one and only website of the Complainant.

The Complainant contends that the Respondent has no rights or legitimate interest in the disputed domain name and in this regard states that:

- to the best of its knowledge, the Respondent is not commonly known by the disputed domain name or SISLEY and nor is he proposing a bona fide offer of products/services;
- to the best of its knowledge, the Respondent does not make any use of a business name including "sisley" or "sisley one" and has no relevant trade mark rights;
- the Complainant has no relationship with the Respondent and has not authorized, licensed, permitted or otherwise consented to the Respondent's use of the trade mark SISLEY;
- the disputed domain name resolves to a website which offers for sale perfumes that are counterfeit (or at least unauthorized) and before the cease-and-desist letter was sent those perfumes included perfumes bearing the Complainant's trade mark SISLEY;
- the use of the disputed domain name misleads consumers and is a deliberate attempt to create confusion with the Complainant's business such that it is conceivable that the public will believe the

- website to be the Complainant's official website or that of an authorized exclusive distributor which is damaging to the Complainant;
- the use of the Complainant's trade marks in the Privacy Policy and within e-mail addresses show that the Respondent is deliberately using the Complainant's trade mark and such use could be to collect contact details which might be likened to attempts at phishing or at least attempts to collect personal data which acts are likely to be damaging to the Complainant; and
  - the Complainant is deliberately creating confusion with the Complainant's business by using the Complainant's identity, reproducing the SISLEY trade mark, offering for sale counterfeit (or at least unauthorized) perfumes which acts support an inference that the Respondent has no rights or legitimate interest in the disputed domain name.

The Complainant contends that the disputed domain name was registered and is being used in bad faith for the following reasons:

- The Respondent registered the disputed domain name for the purpose of creating a likelihood of confusion with the Complainant's trade marks and taking unfair advantage. In this regard, the Complainant states that;
- the Complainant's use of the trade mark SISLEY for perfumes and cosmetics since 1972 mean the Respondent was aware of the Complainant's rights and deliberately registered the disputed domain name in bad faith;
- the disputed domain name reproduces the trade mark SISLEY in its entirety and the website to which it resolves is used for selling perfumes which goods are covered by the Complainant's registrations and are one of its key products;
- the disputed domain name has similar structure to the Complainant's domain names since it begins with the SISLEY trade mark;
- the disputed domain name has a similar structure to the Complainant's domain name <sisley-paris.com> in that it comprises SISLEY followed by a descriptive term;
- there was a reproduction of the names, trade marks and images of the Complainant's perfumes.
- the Respondent has already been the subject of several complaints including *Korian v. Nawaf Hariri, Salla*, WIPO Case No. [D2022-1641](#), *Les Parfumeries Fragonard v. Nawaf Hariri, Salla*, WIPO Case No. [D2022-1887](#), and *Les Parfumeries Fragonard v. Nawaf Hariri, Salla*, WIPO Case No. [D2022-0192](#), which have similar factual scenarios to this case and in all those cases the Respondent was found to have registered and used the domain names in bad faith; and
- The use of the Complainant's trade marks in e-mail addresses and in its Privacy Policy show that the Respondent is deliberately using the identity of the Complainant to impersonate the Complainant in order to attract loyal customers and collect data of Internet users, which acts could be likened to attempts at phishing or at the very least attempts to collect data, possibly for fraudulent purposes which acts are likely to be damaging to the Complainant.

## **B. Respondent**

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

## **6. Discussion and Findings**

### **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 entirety of the Complainant's SISLEY trade mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms, here "one", may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name 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 Panel finds that the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. In this regard, there is no evidence that the Respondent has made preparations to use the disputed domain name in connection with a bona fide offering of goods or services, or been commonly known by the disputed domain name or is making a legitimate non-commercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trade mark. The Respondent is not authorized to use the Complainant's trade mark and has no relationship with the Complainant. Further, the composition of the disputed domain name together with the use to which it has been put indicates an awareness and targeting of the Complainant with the intention of taking unfair advantage of the Complainant's trade mark which demonstrates a lack of rights or legitimate interests.

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 name 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.

Paragraph 4(b)(iv) of the Policy is particularly pertinent to the facts of this case. In that paragraph, the example circumstance evidencing registration and use in bad faith is:

"by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your website or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your website or location or of a product or service on your website or location."

In these circumstances, it is inconceivable that the Respondent was unaware of the Complainant's trade mark rights when registering the disputed domain name. The awareness of the Respondent is demonstrated by the fact that after registration, the Respondent pointed the disputed domain name to a website that offered for sale the Complainant's products (or counterfeits of the same).

In short, the Respondent deliberately chose to register a domain name incorporating the Complainant's trade mark to facilitate a website for the purpose of impersonating (or at least giving the impression of a connection with) the Complainant. That the Respondent has further utilized the Complainant's trade mark in the customer service e-mail addresses and within the Privacy Policy is further evidence of the attempt to impersonate (or at least give the impression of a connection with) the Complainant.

It is immaterial that the Respondent has subsequently removed the Complainant's products (or counterfeits of the same) from the website because the Respondent is still impersonating (or at least giving the impression of a connection with) the Complainant. As such, the circumstances of this case fall squarely within paragraph 4(b)(iv) in that the Complainant has intentionally used the disputed domain name to attract, for commercial gain, internet users to the website by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation or endorsement of the website and/or the products on the website.

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 name, <sisleyone.com>, be transferred to the Complainant.

*/Catherine Slater/*

**Catherine Slater**

Sole Panelist

Date: February 13, 2024