

ADMINISTRATIVE PANEL DECISION

Les Parfumeries Fragonard v. tarek harrathi
Case No. D2024-3654

1. The Parties

The Complainant is Les Parfumeries Fragonard, France, represented by MIIP MADE IN IP, France.

The Respondent is tarek harrathi, Morocco.

2. The Domain Name and Registrar

The disputed domain name <fragonardorient.com> is registered with Wix.com Ltd. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 10, 2024. On September 10, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 11, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent (REDACTED FOR PRIVACY) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 18, 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 September 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 September 20, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 10, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 16, 2024.

The Center appointed Philippe Gilliéron as the sole panelist in this matter on October 21, 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 company incorporated under French Laws that is active in the perfume industry. It has been in existence since 1782 and took the name of "Parfumerie Fragonard" as a tribute to the famous painter in 1926. It also runs in Grasse, where it has its historical roots, a factory and museum opened to visitors.

The Complainant owns numerous trademarks consisting in all or in part of the word "FRAGONARD" registered in class 3 (among others), such as, notably:

- The French word trademark FRAGONARD n° 1327342, registered with a priority date as of October 18, 1985;
- The French word trademark FRAGONARD PARFUMEUR n° 1661663, registered with a priority date as of May 14, 1991;
- The European Union trademark FRAGONARD n° 12235941, registered with a priority date as of October 18, 2013.

The Complainant further has a significant domain names portfolio consisting in all or in part of the word "FRAGONARD". It notably promotes the sales of its FRAGONARD products through the website <Fragonard.com>.

On August 30, 2024, the Respondent registered the disputed domain name. The disputed domain name is linked to a fake site arguably selling perfume products, which incorporates and reproduces the Complainant's trademarks as well as certain of its 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 name.

Notably, the Complainant contends that the disputed domain name is confusingly similar to its FRAGONARD trademarks as it entirely incorporates such term and that the addition of the term "orient" is merely descriptive.

The Complainant then affirms that the Respondent has no rights or legitimate interests in the disputed domain name as it has never been authorized or licensed by the Complainant to use the FRAGONARD trademark and is not known under that name.

The Complainant finally is of the view that the disputed domain name was registered and is being used in bad faith. Taking into account the Complainant's reputation and the reproduction of the Complainant's trademark on the website attached to the disputed domain name, the Respondent was obviously aware of the existence of the Complainant's trademark when it registered it. The use made of the disputed domain name, which is linked to a website reproducing the Complainant's trademark, amounts to a use in bad faith.

B. Respondent

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

6. Discussion and Findings

Paragraph 15(a) of the Rules instructs this Panel to "[...] decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable."

Pursuant to paragraph 4(a) of the Policy, the Complainant must prove each of the following three elements to obtain an order that the disputed domain name should be cancelled or transferred:

- (i) the disputed domain name is identical or confusingly similar to a trademark or a 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 has been registered and is 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 entirety of the 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. The addition of the term "orient", which is merely referring to a geographical term, does not exclude the confusing similarity between the disputed domain name and the Complainant's trademark.

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.

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 name. 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.

Bad faith requires the Respondent to be aware of the Complainant's trademarks. In the present case, the Complainant owns several FRAGONARD trademarks, which enjoy a strong reputation as acknowledged by prior Panels (WIPO Case No. [D2020-1648](#), *Les Parfumeries Fragonard v. Sunny Elemba*). Moreover, taking into account the composition of the disputed domain name, and the fact that the website attached to the disputed domain name replicates the Complainant's official trademark and logo, the Panel finds that the Respondent was aware of the Complainant's trademarks when he registered the disputed domain name.

The disputed domain name resolves to a website that arguably sells perfume products, and reproduces the Complainant's trademark, likely attempting to take an unfair advantage. Such a use of a domain name, in a blatant targeting of the Complainant's trademark rights, obviously amounts to a use in bad faith (see, for instance: *Fenix International Limited v. Leandro Vinicius Bau*, WIPO Case No. [D2021-0584](#)).

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 <fragonardorient.com> be transferred to the Complainant.

/Philippe Gilliéron/

Philippe Gilliéron

Sole Panelist

Date: October 30, 2024