

ADMINISTRATIVE PANEL DECISION

Interparfums SA v. Avalon Ship
Case No. D2022-1749

1. The Parties

The Complainant is Interparfums SA, France, internally represented.

The Respondent is Avalon Ship, United States of America.

2. The Domain Name and Registrar

The disputed domain name <interparfums-fr.com> is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 13, 2022. On May 13, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 16, 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 2, 2022. In accordance with the Rules, paragraph 5, the due date for Response was June 22, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 23, 2022.

The Center appointed Federica Togo as the sole panelist in this matter on July 7, 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 the registered owner of trademarks in several jurisdictions for INTER PARFUMS, e.g. French trademark registration No. 99781389 INTER PARFUMS, registered for goods in classes 3, 18, and 24 on March 12, 1999; International registration No. 763213 INTER PARFUMS, registered on March 16, 2001 for goods in classes 3 (amongst others for perfumes), 18, and 24 and designating several countries worldwide. This mark has been duly renewed and is in force.

The disputed domain name was registered on April 22, 2022.

Furthermore, the undisputed evidence provided by the Complainant proves that the disputed domain name <interparfums-fr.com> has been used to send an email to a Complainant's customer, while pretending to be the Complainant, i.e. the company Interparfums SA, seemingly in order to obtain improper payment. The disputed domain name does not resolve to an active website.

5. Parties' Contentions

A. Complainant

It results from the Complainant's undisputed allegations that it is a French company, part of a group founded in 1982, which is active in the perfume and fashion business. In addition, it was introduced in Euronext stock exchange in 1995 and has recently entered the SBF 120 (top 120 companies before Euronext) which makes it particularly noticeable to public eye.

The Complainant owns and use domain names <interparfums.fr> and <interparfums-finance.fr> which resolve to its official websites, featuring information about the Complainant's activities worldwide.

The Complainant further contends that the disputed domain name is confusingly similar to the Complainant's earlier trademark, since it entirely reproduces the Complainant's registered trademark, which is instantly recognizable within the disputed domain name. The additional letter "fr" referring to the geographical code for France are only more misleading the public into thinking that the disputed domain name is linked to the Complainant.

The Complainant further contends that the Respondent has no rights or legitimate interests in the disputed domain name. According to the Complainant, it has never granted any license or authorization of use of the trademark INTER PARFUMS to the Respondent. The additional letter "fr" referring to the geographical code for France and to the nationality of the Complaint creates a high risk of affiliation with the Complainant. In addition, the disputed domain name is used for the purpose of scamming to the Complainant's clients.

Finally, the Complainant contends that the disputed domain name was registered and is being used in bad faith. According to the Complainant, the disputed domain name was purposely registered to organize a scam scheme to trick the Complainant's clients into believing that the emails sent through the MX server of the disputed domain name came from the Complainant. Indeed, emails were sent using the MX server of the disputed domain name associated with the names of actual personnel members of the Complainant such as accounting department members and export managers in charge of the clients. In the scam emails the Respondent who uses a fake INTER PARFUMS email signature is indicating that the shipment shall be paid to a new account. Besides, the Respondent attached fake invoices and its bank account details. Thus, the Respondent is impersonating the Complainant's employees and deceiving the Complainant's clients into making payments to accounts other than those of the Complainant.

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”. Paragraph 4(a) of the Policy requires a complainant to prove each of the following three elements in order to obtain an order that the disputed domain name be transferred or cancelled:

- (i) the disputed domain name is 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 name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

The Panel will therefore proceed to analyze whether the three elements of paragraph 4(a) of the Policy are satisfied.

A. Identical or Confusingly Similar

Pursuant to paragraph 4(a)(i) of the Policy, the Complainant must establish rights in a trademark or service mark and secondly establish that the disputed domain name is identical or confusingly similar to a trademark in which the Complainant has rights.

It results from the evidence provided that the Complainant is the registered owner of several trademark registrations for INTER PARFUMS, e.g. French trademark registration No. 99781389 INTER PARFUMS, registered for goods in classes 3, 18, and 24 on March 12, 1999; International registration No. 763213 INTER PARFUMS, registered on March 16, 2001 for goods in classes 3 (amongst others for perfumes), 18 and 24 and designating several countries worldwide. This mark has been duly renewed and is in force.

Prior UDRP panels have found that a disputed domain name is confusingly similar to a complainant's trademark where the disputed domain name incorporates the complainant's trademark in its entirety (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”) at section 1.7).

This Panel shares this view and notes that the Complainant's registered trademark INTER PARFUMS is fully included in the disputed domain name, followed by a hyphen and the letters “fr”. Furthermore, it is the view of this Panel that the addition of the letters “fr” and the hyphen in the disputed domain name cannot prevent a finding of confusing similarity between the disputed domain name and the Complainant's trademark since the Complainant's trademark is clearly recognizable in the disputed domain name (see [WIPO Overview 3.0](#) at section 1.8).

Finally, the generic Top-Level Domain (“gTLD”) “.com” of the disputed domain name may be disregarded under the first element confusing similarity test (see [WIPO Overview 3.0](#) at section 1.11.1).

In the light of the above, the Panel finds that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights.

B. Rights or Legitimate Interests

Pursuant to paragraph 4(a)(ii) of the Policy, the Complainant must secondly establish that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

Paragraph 4(c) of the Policy contains a non-exhaustive list of circumstances which, if found by the Panel to be proved, shall demonstrate the Respondent's rights or legitimate interests to the disputed domain name. In the Panel's view, based on the undisputed allegations stated above, the Complainant has made a *prima*

facie case that none of these circumstances are found in the case at hand and, therefore, that the Respondent lacks rights or legitimate interests in the disputed domain name.

According to the Complaint, which has remained unchallenged, the Complainant has no relationship in any way with the Respondent and did, in particular, not authorize the Respondent's use of the trademark INTER PARFUMS, e.g., by registering the disputed domain name comprising the said trademark entirely.

Furthermore, the Panel notes that there is no evidence showing that the Respondent might be commonly known by the disputed domain name in the sense of paragraph 4(c)(ii) of the Policy.

Moreover, the nature of the disputed domain name carries a risk of implied affiliation, since the disputed domain name contains the Complainant's trademark INTER PARFUMS followed by a hyphen and the letters "fr", which are the geographical abbreviation for France, where the Complainant is located. Geographical terms are seen as tending to suggest sponsorship or endorsement by the trademark owner, see [WIPO Overview 3.0](#), section 2.5.1.

It is acknowledged that once the Panel finds a *prima facie* case is made by a complainant, the burden of production under the second element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the disputed domain name. Since the Complainant has put forward a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name and the Respondent in the case at hand failed to come forward with any allegations or evidence, this Panel finds, in the circumstances of this case, that the Respondent has no rights or legitimate interests in the disputed domain name.

The Panel finds that the Complainant has therefore satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

According to paragraph 4(a)(iii) of the Policy, the Complainant must thirdly establish that the disputed domain name has been registered and is being used in bad faith. The Policy indicates that certain circumstances specified in paragraph 4(b) of the Policy may, "in particular but without limitation", be evidence of the disputed domain name's registration and use in bad faith.

This Panel approves the approach taken by previous UDRP panels following which the use of a domain name for purposes other than to host a website may constitute bad faith. Such purposes include sending email, phishing, identity theft, or malware distribution. Many such cases involve the respondent's use of the domain name to send deceptive emails, e.g. to obtain sensitive or confidential personal information from prospective job applicants, or to solicit payment of fraudulent invoices by the complainant's actual or prospective customers (see [WIPO Overview 3.0](#) at section 3.4). As explained above, it results from the undisputed evidence submitted by the Complainant that the disputed domain name has been used for sending fraudulent email in the name of the Complainant by using its company name and address in order to solicit payment. In addition, the use of the disputed domain name in such an illegal scheme additionally demonstrates that the Respondent not only knew of the Complainant, its business and marks, but also attempted to pass itself off as the Complainant (see *Septodont ou Septodont SAS ou Specialites Septodont v. Dugan Morgan*, WIPO Case No. [D2020-1817](#) *Virgin Enterprises Limited v. Registration Private, Domains by Proxy, LLC / Name Redacted*, WIPO Case No. [D2018-0645](#); *Jcdecaux SA v. Whois Privacy Protection Foundation / Anderson Paul*, WIPO Case No. [D2019-1143](#)).

The disputed domain name does not resolve to an active website. In this regard, the Panel notes that the current passive holding does not preclude a finding of bad faith (see *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#)). In fact, the further circumstances surrounding the disputed domain name's registration and use confirm the findings that the Respondent has registered and is using the disputed domain name in bad faith: (1) the Respondent failed to submit a formal response or to provide any evidence of actual or contemplated good-faith use; and (2) the implausibility of any good faith use to which the disputed domain name may be put (see [WIPO Overview 3.0](#) at section 3.3).

In the light of the above, the Panel finds that the disputed domain name has been registered and is being used in bad faith pursuant to 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 <interparfums-fr.com> be transferred to the Complainant.

/Federica Togo/

Federica Togo

Sole Panelist

Date: July 14, 2022