

ADMINISTRATIVE PANEL DECISION

Interparfums SA v. Amr sarairoh, Rochasperfume
Case No. D2023-0698

1. The Parties

The Complainant is Interparfums SA, France, represented internally.

The Respondent is Amr sarairoh, Rochasperfume, Jordan.

2. The Domain Name and Registrar

The disputed domain name <rochasperfume.store> is registered with Tucows Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 15, 2023. On February 16, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 16, 2023, 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 (Unknown / Contact Privacy Inc. Customer 0166321191) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 21, 2023, 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 amendment to the Complaint on February 23, 2023.

The Center verified that the Complaint together with the amendment to 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 March 7, 2023. In accordance with the Rules, paragraph 5, the due date for Response was March 27, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 29, 2023.

The Center appointed Kiyoshi Tsuru as the sole panelist in this matter on April 13, 2023. 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 fashion house. The Complainant is the owner of several trademark registrations around the world, among others, the following:

Trademark	Registration No.	Jurisdiction	Date of Registration
ROCHAS	597493	International Registration	March 1, 1993
ROCHAS	1436306	France	November 20, 1987
PARFUMS ROCHAS	383428	International Registration	October 26, 1971
ROCHAS PARIS	451949	International Registration	May 2, 1980

The Complainant is also the owner of multiple domain names, among others <rochas.com>, which resolves to the Complainant's official website.

The disputed domain name was registered on January 27, 2023, and it resolves to a website that operates an online store that offers perfumes of several brands that are not related to the Complainant.

5. Parties' Contentions

A. Complainant

Identical or Confusingly Similar

That the disputed domain name is confusingly similar to the Complainant's trademarks.

That the disputed domain name resolves to a website that offers multi-brand perfumes, which creates confusion among the public, who would likely think that they are buying from the Complainant's official website.

Rights or Legitimate Interests

That the Respondent has no rights to or legitimate interests in the ROCHAS, ROCHAS PARIS, or PARFUMS ROCHAS trademarks.

That the Complainant has not granted any license or authorization of use to the Respondent to use said trademarks.

That the Respondent has not provided any evidence that it has any rights to or legitimate interests in the disputed domain name.

That the Respondent did not show any evidence of use or demonstrable preparations to use the disputed domain name in connection with a *bona fide* offering of goods or services.

That there is no suggestion that the Respondent has been commonly known by the disputed domain name.

That the Respondent is not affiliated with the Complainant, and has never been authorized by the Complainant to use its trademarks.

That, considering the composition of the disputed domain name, the Respondent cannot justify a legitimate or fair noncommercial use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers, or to tarnish the Complainant's trademarks.

That the disputed domain name resolves to a website that sells perfumes from various brands, including those of the Complainant's competitors.

Registered and Used in Bad Faith

That the Respondent's registration of the disputed domain name is an act of bad faith since such registration has prevented the Complainant from using its trademark in the disputed domain name.

That the disputed domain name resolves to a website that offers third-party perfumes using the Complainant's trademarks.

That the Respondent, by using the disputed domain name, has intentionally attempted to attract, for commercial gain, Internet users to the website to which the disputed domain name resolves by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement of the products appearing on the website.

That the use of the disputed domain name could lead the public to believe that there is a link between the Complainant, the ROCHAS trademark, and the website at the disputed domain name.

That the Respondent offers for sale products of the Complainant's competitors using the Complainant's trademark, which indicates that the Respondent has registered the disputed domain name to take advantage of the Complainant's goodwill.

That the Respondent must have chosen the disputed domain name deliberately to benefit from the Complainant's goodwill and reputation, for commercial gain.

That the Respondent must have been aware of the Complainant's trademarks at the time of registration of the disputed domain name, since the Complainant and its predecessor has been in business for over 90 years.

That the evidence submitted by the Complainant suggests that the Respondent registered the disputed domain name with the intent of capitalizing on the Complainant's trademarks.

B. Respondent

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

6. Discussion and Findings

In accordance with paragraph 4(a) of the Policy, the Complainant is required to prove that each of the three following elements is satisfied:

- (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 was registered and is being used in bad faith.

Given the Respondent's failure to submit a Response, the Panel may decide this proceeding based on the Complainant's undisputed factual allegations under paragraphs 5(f), 14(a), and 15(a) of the Rules, (see *Joseph Phelps Vineyards LLC v. NOLDC, Inc., Alternative Identity, Inc., and Kentech*, WIPO Case No. [D2006-0292](#), and *Encyclopaedia Britannica, Inc. v. null John Zuccarini, Country Walk*, WIPO Case No. [D2002-0487](#)).

A. Identical or Confusingly Similar

The disputed domain name is confusingly similar to the trademark ROCHAS, as it entirely incorporates it, with the addition of the term "perfume". The incorporation of the said term does not prevent a finding of confusing similarity under the first element (see sections 1.7 and 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

The addition of the generic Top-Level Domain ("gTLD") ".store" to the disputed domain name constitutes a technical requirement of the Domain Name System ("DNS") and therefore may be disregarded under the first element confusing similarity test (see *CARACOLITO S SAS v. Nelson Brown, OXM.CO*, WIPO Case No. [D2020-0268](#); *SAP SE v. Mohammed Aziz Sheikh, Sapteq Global Consulting Services*, WIPO Case No. [D2015-0565](#); and *Bentley Motors Limited v. Domain Admin / Kyle Rocheleau, Privacy Hero Inc.*, WIPO Case No. [D2014-1919](#)).

Therefore, the first element of the Policy has been met.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy sets forth the following examples as circumstances where a respondent may have rights or legitimate interests in a disputed domain name:

- (i) before any notice to the respondent of the dispute, the use by the respondent of, or demonstrable preparations to use, the disputed domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services; or
- (ii) the respondent (as an individual, business, or other organization) has been commonly known by the disputed domain name, even if it did not acquire trademark or service mark rights; or
- (iii) the respondent is making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Complainant has proven to be the owner of several registrations for the ROCHAS trademark in different jurisdictions. Additionally, the Panel agrees with previous panels appointed under the Policy, in that the ROCHAS trademark is well known (see *Interparfums SA contre Pierre Lebus*, WIPO Case No. [D2022-4011](#), and *Interparfums SA v. 1&1 Internet Inc / Marc Marmel*, WIPO Case No. [D2021-2561](#)).

The Complainant has asserted that there is no relationship or affiliation between the Complainant and the Respondent and that it has not granted any license or authorization to the Respondent to use its ROCHAS trademark (see *Beyoncé Knowles v. Sonny Ahuja*, WIPO Case No. [D2010-1431](#), and *Six Continents Hotels, Inc. v. IQ Management Corporation*, WIPO Case No. [D2004-0272](#)). The Respondent did not contest these allegations.

According to the evidence filed by the Complainant, the website to which the disputed domain name resolves seems to be an online store, through which different perfumes from competing third parties are sold. Therefore, and considering that the disputed domain name entirely incorporates the Complainant's trademark ROCHAS, plus the term "perfume", which directly refers to the products that the Complainant sells, the Panel notes that the composition of the disputed domain name carries a risk of implied affiliation since Internet users may think that the website to which the disputed domain name resolves is the

Complainant's official website or is otherwise affiliated to or sponsored by the Complainant (see section 2.5.1 of the [WIPO Overview 3.0](#), see also *Euro Sko Norge AS v. Whoisguard Inc. / Shier Dede, Shier Dede*, WIPO Case No. [D2020-0194](#); *Bechtel Group, Inc. v. Raman Shuk*, WIPO Case No. [D2020-1469](#); *Biofarma v. Dawn Mason*, WIPO Case No. [D2019-1952](#)).

Furthermore, according to the evidence submitted by the Complainant and not contested by the Respondent, the website to which the disputed domain name resolves predominantly displays the Complainant's ROCHAS trademark. This shows that the Respondent has attempted to impersonate the Complainant. A finding of impersonation prevents a determination of a *bona fide* offering of goods (see sections 2.5.1, and 2.13.1 of the [WIPO Overview 3.0](#); see also *Self-Portrait IP Limited v. Franklin Kelly*, WIPO Case No. [D2019-0283](#)).

The facts of this case do not pass the *Oki Data* test. The Complainant has asserted that the Respondent sells perfumes from various brands, including those of its competitors. Also, said website does not display a disclaimer stating that it is not related to the Complainant (see section 2.8.1 of the [WIPO Overview 3.0](#); see also *Oki Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#); see additionally *Phiip Morris S.A. v. bprapan bpaetaa*, WIPO Case No. [D2020-3372](#); *Phiip Morris S.A. v. Rohan mubbahir Kahn*, WIPO Case No. [D2021-1314](#); *LEGO Juris A/S v. John Davis*, WIPO Case No. [D2018-0313](#) and *Victorinox AG v. Andre Freitas, Result Capital* WIPO Case No. [D2021-2924](#): "The Panel finds that the Respondent failed to satisfy at least the second and the third above requirements offering for sale products of the Complainant's competitors and not disclosing its actual relationship with the Complainant, and thus failed to pass the *Oki Data* Test.").

The Complainant has made a *prima facie* case asserting that there is no evidence of the Respondent's use of the disputed domain name in connection with a *bona fide* offering of goods or services, and that the Respondent has not been commonly known by the disputed domain name. The Respondent has not submitted evidence to prove otherwise.

Thus, the second element of the Policy has been fulfilled.

C. Registered and Used in Bad Faith

Bad faith under the Policy is broadly understood to occur where a respondent takes unfair advantage of or otherwise abuses a complainant's mark. According to paragraph 4(b) of the Policy, the following circumstances, in particular but without limitation, shall be evidence of registration and use in bad faith:

- (i) circumstances indicating that the respondent has registered or has acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration 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 its 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 its website or location.

As stated previously, the Complainant has ascertained its rights over the ROCHAS well-known trademark. The dates of registration of the Complainant's trademarks significantly precede the date of registration of the disputed domain name.

The fact that the Respondent registered the disputed domain name, which entirely reproduces the Complainant's well-known trademark ROCHAS, shows that the Respondent has targeted the Complainant, which constitutes opportunistic bad faith (see section 3.2.1 of the [WIPO Overview 3.0](#); see also *L'Oréal v. Contact Privacy Inc. Customer 0149511181 / Jerry Peter*, WIPO Case No. [D2018-1937](#); *Gilead Sciences Ireland UC / Gilead Sciences, Inc. v. Domain Maybe For Sale c/o Dynadot*, WIPO Case No. [D2019-0980](#); *Dream Marriage Group, Inc. v. Romantic Lines LP, Vadim Parhomchuk*, WIPO Case No. [D2020-1344](#); *Valentino S.p.A. v. Qiu Yufeng, Li Lianye*, WIPO Case No. [D2016-1747](#); *Landesbank Baden-Württemberg (LBBW) v. David Amr*, WIPO Case No. [D2021-2322](#) "Given the distinctiveness of the Complainant's trademark, it is reasonable to infer that the Respondent has registered the Disputed Domain Name with full knowledge of the Complainant's trademarks, constituting opportunistic bad faith. The Panel finds it hard to see any other explanation than that the Respondent knew of the Complainant's well-known trademark.").

Previous panels appointed under the Policy have found that the mere registration by an unauthorized party of a domain name that entirely incorporates a well-known trademark can constitute a presumption of bad faith (see section 3.1.4 of the [WIPO Overview 3.0](#); see also *Ferrari S.p.A. v. Ms. Lee Joohee (or Joo-Hee)*, WIPO Case No. [D2003-0882](#)). Given the circumstances of this case, the Panel finds that this is so in the present proceeding.

The fact that the Respondent chose to register the disputed domain name which resolves to a website that sells products of the Complainant's competitors suggests that the Respondent knew the Complainant, its trademarks, and its business when registering the disputed domain name, and that the Respondent has targeted the Complainant (see section 3.2.1 of the [WIPO Overview 3.0](#); see also *Self-Portrait IP Limited v. Franklin Kelly, supra*, and *Aguirre y Compañía S.A. v. Roger Llohis, Luzon Lighting INC and Yuliani Llohis, PADEL USA*, WIPO Case No. [D2022-1558](#): "Therefore, in these circumstances, where the Respondent is offering competing products, it is open for the Panel to find that the Respondent is trading off the Complainant's trademark and registered and is using the disputed domain names in bad faith.").

According to the evidence submitted by the Complainant, the Respondent has used the disputed domain name in an attempt to impersonate the Complainant for commercial gain, which also constitutes bad faith under the Policy (see *1IQ PTY LTD v. 1337 Services LLC*, WIPO Case No. [D2017-2156](#) ("It follows from this and the conclusions as to impersonation so far as rights and legitimate interests is concerned, that the Domain Name was also both registered and used in order to unfairly impersonate the Complainant and its mark and therefore in bad faith"); see also *SwissCare Europe v. michael click, Active OutDoors LLC*, WIPO Case No. [D2022-1496](#): "This Panel considers that, in appropriate circumstances, a failure to pass the impersonation test may properly lead to a finding of registration and use in bad faith because of the fact that, at its heart, such a domain name has been selected and used with the intention of unfairly deceiving Internet users, notably those who are (actual or potential) consumers of the trademark owner."; *Philip Morris Products S.A. v. Domain Administrator, Registrant of iqosatismaganiz.com (apiname com) / Anl Girgin, Teknoloji Sarayi*, WIPO Case No. [D2019-0466](#); *Self-Portrait IP Limited v. Franklin Kelly, supra*; and *Friedman and Soliman Enterprises, LLC v. Gary Selesko, M&B Relocation and Referral, LLC*, WIPO Case No. [D2016-0800](#)).

These facts also show that the Respondent has intentionally used the disputed domain name to attract, for commercial gain, Internet users to the website to which the disputed domain name resolves, by creating the impression among Internet users that said website is related to, associated with, or endorsed by the Complainant, which conduct constitutes bad faith under paragraph 4(b)(iv) of the Policy (see section 3.1.4 of the [WIPO Overview 3.0](#)).

In light of the above, the third element of the Policy has been met.

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 <rochasperfume.store> be transferred to the Complainant.

/Kiyoshi Tsuru/

Kiyoshi Tsuru

Sole Panelist

Date: April 27, 2023