

ADMINISTRATIVE PANEL DECISION

Les Parfumeries Fragonard v. Олександр Шевцов (Oleksandr Shevtsov)
Case No. DUA2024-0016

1. The Parties

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

The Respondent is Олександр Шевцов (Oleksandr Shevtsov), Ukraine.

2. The Domain Name(s) and Registrar(s)

The disputed domain name <fragonar.com.ua> is registered with SE Skurikhin Mykola (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on December 5, 2024. On December 9, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 10, 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 and contact information in the Complaint (N/A). The Center sent an email communication to the Complainant on December 10, 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 December 12, 2024.

On December 10, 2024, the Center informed the parties in Ukrainian and English, that the language of the registration agreement for the disputed domain name is Ukrainian. On December 12, 2024, the Complainant confirmed its request that English be the language of the proceeding. The Respondent did not submit any comments on the Complainant’s submission but sent an email to the Center in English on December 10, 2024, stating that he has read the Complaint and did not agree with the alleged use of the Complainant’s logo and trademark, further stipulating that the disputed domain name was chosen by the Respondent due to its availability and without the Respondent’s knowledge of the Complainant’s trademark.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of .UA Domain Name Dispute Resolution Policy (the “.UA Policy”), the Rules for .UA Domain Name Dispute Resolution Policy (the “.UA Rules”), and the WIPO Supplemental Rules for .UA Domain Name Dispute Resolution Policy (the “WIPO Supplemental Rules”).

In accordance with the .UA Rules, paragraphs 2(a) and 4(a), the Center formally notified the Respondent of the Complaint in both Ukrainian and English, and the proceedings commenced on December 17, 2024. In accordance with the .UA Rules, paragraph 5(a), the due date for Response was January 6, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on January 7, 2025.

The Center appointed Igor Alfiorov as the sole panelist in this matter on January 10, 2025. 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 .UA Rules, paragraph 7.

4. Further Procedural Considerations

Under paragraph 10 of the .UA Rules, the Panel is required to ensure that the Parties are treated equally, that each Party is given a fair opportunity to present its case, and that the administrative proceeding is conducted with due expedition.

Since the Respondent's mailing address is stated to be in Ukraine, which is currently subject to an international conflict that may impact case notification, it is appropriate for the Panel to consider, in accordance with its discretion under paragraph 10 of the .UA Rules, whether the proceeding should continue.

Having considered all the circumstances of the case, the Panel is of the view that the proceedings should continue. The Panel notes that the Center sent the Notification of Complaint by email to the Respondent at its email address registered with the Registrar and to the postmaster email address specified by the .UA Rules. The Respondent replied to the Center's pre-commencement Notice of Registrant Information email, providing an informal response to the Complaint but not objecting against the proceedings or requesting their suspension on the grounds of being unable to participate in view of the military actions in Ukraine.

The Panel also notes that the Complainant indicated in the Complaint that any appeal by the Respondent against this Decision falls within the jurisdiction of the courts of Ukraine.

Moreover, for the reasons set out later in this Decision, the Panel has no serious doubt (even in the absence of a formal Response) that the Respondent registered and used the disputed domain name in bad faith.

The Panel concludes that the Parties have been given a fair opportunity to present their case. To ensure the administrative proceeding is conducted with due expedition, the Panel will proceed to issue a Decision accordingly.

5. Factual Background

The Complainant, Les Parfumeries Fragonard, is one of three historic perfume manufacturers from the city of Grasse, France, renowned as a center of the perfume industry. The company was established in 1926 and is named in tribute to the painter Jean-Honoré Fragonard, who was originally from Grasse.

The Complainant manufactures perfumes and commercializes its products worldwide through numerous stores and outlets under the FRAGONARD brand. FRAGONARD products are also sold via mail-order catalogs and through its online store at <fragonard.com>. Additionally, the Complainant's products are distributed as gifts in prestigious hotels around the world and through a robust international distribution network.

The Complainant owns a number of registered trademarks for FRAGONARD, including inter alia, the International Trademark Registration, FRAGONARD, registration number 647574, covering goods in IC 3, registered on November 10, 1995, with designation to Ukraine.

According to the provided evidence, through many years of extensive use, promotion, and advertising, the FRAGONARD mark has gained a strong reputation and widespread recognition, becoming well-known to consumers in numerous countries worldwide.

The well-known status and strong reputation of the FRAGONARD trademarks have also been confirmed in previous WIPO UDRP¹ decisions, including *Les Parfumeries Fragonard v. Sunny Elemba*, WIPO Case No. [D2020-1648](#); *Les Parfumeries Fragonard v. Jean-Claude Maitre*, WIPO Case No. [D2020-0709](#); and *Les Parfumeries Fragonard v. Stanislav Petryashov*, WIPO Case No. [D2019-1088](#).

The Complainant owns a number of domain names containing the FRAGONARD trademark, registered across various domain zones, all of which redirect to the Complainant's commercial website, "www.fragonard.com".

The Complainant's trademarks were protected long before the disputed domain name was registered on October 26, 2024.

The disputed domain name resolves to a commercial website in Ukrainian, offering perfume products from various brands.

6. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name entirely reproduces the Complainant's FRAGONARD trademark, differing only by the omission of the letter "d," which constitutes evidence of typosquatting.

Furthermore, the Respondent has no rights or legitimate interests in the disputed domain name, as it was registered after the Complainant had already acquired rights to its trademarks and domain names containing FRAGONARD. There is no business or legal relationship between the Complainant and the Respondent, and the Complainant has neither authorized nor licensed the Respondent to use its trademarks in any capacity. The use of the disputed domain name, omitting the final "d," leads to the confusion of consumers who will think that the Respondent is an authorized retailer.

The disputed domain name was registered in bad faith, with the sole intent of taking undue advantage of the FRAGONARD trademark. Considering the strong reputation and well-known status of the FRAGONARD trademarks, the Complainant argues that the Respondent's registration of the domain name cannot be attributed to chance or coincidence.

B. Respondent

The Respondent did not submit a formal reply to the Complaint but did respond informally via email to the Center's Notice of Registrant Information email. In this email, the Respondent disagreed with the Complaint, claiming to have been unaware of the Complainant's registered trademarks and stating that the registration of the disputed domain name was not an intentional act of trademark infringement, as the domain name was available for registration. The Respondent explained that the website is exclusively targeted at Ukrainians (presumably referring to customers from Ukraine), using a Ukrainian domain and

¹ UDRP refers to the "Uniform Domain Name Dispute Resolution Policy".

language, and is therefore irrelevant to foreign users. The Respondent also suggested that the matter could have been resolved amicably if the Complainant offered the ways of resolving the dispute.

7. Discussion and Findings

Given the similarities between the .UA Policy and Uniform Domain Name Dispute Resolution Policy (“UDRP”), the Panel will refer to the UDRP precedents when relevant.

A. Language of the Proceeding

The language of the Registration Agreement for the disputed domain name is Ukrainian. Pursuant to paragraph 11(a) of the .UA Rules, in the absence of an agreement between the parties or unless otherwise specified in the registration agreement, the language of the administrative proceeding is to be the language of the registration agreement.

The Complaint was filed in English, and the Complainant requested that English be the language of the proceeding for several reasons, including:

- English is the language of international business;
- The disputed domain name is registered using Latin characters;
- Requiring the Complainant to translate the Complaint and its Annexes into Ukrainian would impose significant costs, and cause delays;
- WIPO has previously accepted English as the language of proceedings in cases involving a Ukrainian registrar;
- A fair, cost-effective, and timely resolution of the dispute should avoid unnecessary delays or language-related obstacles, particularly in a clear-cut typo-squatting case.

The Respondent did not make any specific submissions regarding the language of the proceeding. However, based on the Respondent’s informal email communication in English, the Panel is satisfied that the Respondent understood the Complaint and the arguments presented by the Complainant.

The Respondent was notified of the dispute in both Ukrainian and English and had the option of submitting its Response in Ukrainian.

In exercising its discretion to use a language other than that of the registration agreement, the Panel is required to act judicially, ensuring fairness and justice to both parties. This involves considering all relevant circumstances, such as the parties’ ability to understand and use the proposed language, as well as time and cost implications (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)), section 4.5.1).

Having considered all the above factors, the Panel grants the Complainant’s request and determines, under paragraph 11(a) of the .UA Rules, that the language of the proceeding shall be English.

B. Identical or Confusingly Similar

The Panel finds that the Complainant has established rights in the FRAGONARD trademark.

The Panel observes that the disputed domain name consists of an almost identical reproduction of the FRAGONARD trademark, with the omission of the final letter “d,” combined with the country-code Top-Level Domain (“ccTLD”) “.com.ua.”

The omission of the final letter “d” does not eliminate the likelihood of confusing similarity, as the FRAGONARD trademark remains fully recognizable within the disputed domain name (see [WIPO Overview 3.0](#), section 1.9).

The inclusion of the ccTLD “.com.ua” is considered a standard registration requirement and can be disregarded for the purpose of assessing confusing similarity.

Based on the above, the Panel concludes that the disputed domain name is confusingly similar to the Complainant’s trademark in which the Complainant has established rights.

Accordingly, the Complainant has satisfied the requirement under paragraph 4(a)(i) of the .UA Policy.

C. Rights or Legitimate Interests

The Complainant has established a prima facie case that the Respondent has no rights or legitimate interests in the disputed domain name.

Based on the evidence submitted in the Complaint and the Complainant’s arguments, the Panel finds that the Respondent has no connection or affiliation with the Complainant and has not received any license or consent to use the Complainant’s FRAGONARD trademark. This supports the Panel’s conclusion that the Complainant has made a prima facie case, satisfying the conditions set out in paragraph 4(a)(ii) of the .UA Policy.

Additionally, the Panel notes that the Complainant has extensively used its FRAGONARD trademarks and established significant goodwill long before the Respondent registered the disputed domain name on October 26, 2024.

The Panel also concludes that the Respondent is not using the disputed domain Name for a bona fide offering of goods or services under paragraph 4(c)(i) of the .UA Policy. The disputed domain name fully incorporates the FRAGONARD trademark (with the sole difference being the final letter), which was registered by the Complainant long before the registration of the disputed domain name. The Respondent used the disputed domain name for a website offering perfumery goods of various brands, particularly of the Complainant’s competitors. This use of the disputed domain name clearly demonstrates the Respondent’s awareness of the Complainant and its activities. Moreover, the website in question did not contain any information about any connection between the Respondent and the Complainant. Previous panels have established that the use of a domain name by a respondent will not be considered “bona fide” if it falsely suggests an affiliation with the trademark owner.

The Respondent has failed to rebut the Complainant’s arguments or provide evidence demonstrating any rights or legitimate interests in the disputed domain name.

Accordingly, the Panel concludes that the Complainant has satisfied the second requirement of paragraph 4(a) of the .UA Policy.

D. Registered or Used in Bad Faith

The Panel observes that, under paragraph 4(a)(iii) of the .UA Policy, it must be established that the disputed domain name was registered or is being used in bad faith.

Panels have consistently found that the mere registration of a domain name identical or confusingly similar to a well-known trademark - particularly when it involves typo-squatting or the addition of a descriptive term - by an unaffiliated party can create a presumption of bad faith (*Google Inc v. Butenko Oleksandr Dmytrovych*, WIPO Case No. [DUA2020-0009](#)).

Having reviewed the presented evidence and previous decisions regarding the FRAGONARD trademarks, the Panel recognizes FRAGONARD as a globally renowned and reputable trademark. A simple Internet search for “FRAGONARD” (or even “FRAGONAR”) would immediately reveal the Complainant, its business, and its trademark. Therefore, the Panel finds it inconceivable that the Respondent was unaware of the Complainant’s trademark. Instead, it appears more likely that the Respondent intentionally targeted the

FRAGONARD trademark to exploit its reputation and attract Internet users to the Respondent's website for commercial gain by creating confusion.

The Panel noted that associated website sells perfumery goods of various brands. Considering the FRAGONARD trademark's well-known status, the Respondent's lack of legitimate rights or interests, and the use of the disputed domain name, which is confusingly similar to the FRAGONARD trademark, for a commercial website offering third-parties' perfumery goods, the Panel concludes that altogether this further confirms the Respondent's bad faith intent to attract Internet users to the website for commercial gain by creating a likelihood of confusion as described in paragraph 4(b)(iv) of the .UA Policy.

In light of this, the Panel concludes that the Respondent registered and used the disputed domain name with the sole intent of deriving benefit from the Complainant's reputation and its FRAGONARD trademark (See *CooperVision International Holding Company LP v. Tetiana Zharova*, WIPO Case No. [DUA2020-0003](#)).

Additionally, the Respondent was given the opportunity to submit a formal response to justify legitimate reasons for registering or using the disputed domain name. While no formal response was filed, the Respondent provided a brief informal reply disagreeing with the Complainant and suggesting the dispute could be resolved amicably if the Complainant offered ways to resolve it for consideration. Although the Respondent did not explicitly demand monetary compensation, the invitation to "make an offer" instead of addressing the Complainant's arguments raises doubts about the Respondent's good faith in registering and using the disputed domain name.

Thus, given the provided evidence and circumstances, the Panel concludes that the third element of paragraph 4(a)(iii) of the .UA Policy is satisfied.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the .UA Policy and 15 of the .UA Rules, the Panel orders that the disputed domain name <fragonar.com.ua> be transferred to the Complainant.

/Igor Alfiorov/

Igor Alfiorov

Sole Panelist

Date: January 27, 2024