

## **ADMINISTRATIVE PANEL DECISION**

JJA v. Forest Paul  
Case No. D2025-0477

### **1. The Parties**

The Complainant is JJA, France, represented by Dennemeyer & Associates S.A., Luxembourg.

The Respondent is Forest Paul, United States of America.

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

The disputed domain name <hesperidelejardin.com> is registered with Gname.com Pte. Ltd. (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on February 6, 2025. On February 7, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 10, 2025, 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 - Redacted for privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 10, 2025, 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 February 10, 2025.

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 February 14, 2025. In accordance with the Rules, paragraph 5, the due date for Response was March 6, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on March 7, 2025.

The Center appointed Alissia Shchichka as the sole panelist in this matter on March 12, 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 Rules, paragraph 7.

#### **4. Factual Background**

The Complainant, JJA, is an international company based in France. Founded in 1976, the Complainant specializes in home furnishings and décor. The Complainant's trademark HESPERIDE is used in connection with garden furniture, including tables, chairs, deckchairs, dining sets, parasols, and barbecues.

The Complainant has evidenced to be the registered owner of numerous trademarks worldwide relating to its trademarks HESPERIDE including, but not limited, to the following:

- International Trademark Registration No. 1044063, designating numerous countries, for the figurative mark HESPERIDE, registered on January 27, 2010, in classes 6, 11, 18, 19 and 20.
- European Union Trademark Registration No. 010379196, for the word mark HESPERIDE, registered on April 30, 2012, in classes 6, 11, 16, 17, 18, 19, 20, 21 and 35.

Additionally, the Complainant owns multiple domain names featuring the trademark HESPERIDE, including <hesperide.com> registered on July 31, 2008, and <hesperide.fr> registered on November 25, 2015. Both domain names direct to the Complainant's official website "www.hesperide.com".

The aforementioned trademarks and domain names were registered before the disputed domain name, which was registered on December 2, 2024. The disputed domain name resolves to a website that reproduces the Complainant's HESPERIDE figurative and verbal trademarks, as well as the Complainant's copyrighted images, offering products for sale at a discounted price.

According to the disclosed Whois information, the Respondent of the disputed domain name is located in the United States of America.

#### **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.

The Complainant asserts that the disputed domain name is confusingly similar to its HESPERIDE trademark, as it fully incorporates the trademark with the addition of the descriptive term "lejardin" (meaning garden in French). This term directly relates to the Complainant's business activities and does not prevent a finding of confusing similarity.

Furthermore, the Complainant asserts that the Respondent lacks rights or legitimate interests in the disputed domain name for several reasons. The Respondent is not affiliated with, licensed by, or otherwise authorized to use the HESPERIDE trademark in connection with the disputed domain name. The Respondent has neither used nor demonstrated any preparations to use the disputed domain name in connection with a bona fide offering of goods or services. On the contrary, the Respondent is impersonating the Complainant, as the disputed domain name resolves to a website that reproduces the Complainant's trademark, copyrighted images, and sells the Complainant's products at low prices.

The Complainant also asserts that the Respondent has registered and is using the disputed domain name in bad faith for the following reasons: First, the disputed domain name fully incorporates the Complainant's trademark, combined with a descriptive term referring to the Complainant's activities. This creates a false impression that the website is authorized or affiliated with the Complainant. Second, given the Complainant's reputation and the widespread recognition of its HESPERIDE trademark, the Respondent was undoubtedly aware of the Complainant's rights when registering the disputed domain name. The website reproduces the Complainant's logo, trademarks, and copyrighted product images, demonstrating the Respondent's deliberate attempt to exploit the Complainant's goodwill. Third, the Respondent has intentionally created a likelihood of confusion by misleading Internet users into believing that its website is either the Complainant's official website or an authorized reseller, thereby exploiting the Complainant's reputation for commercial gain. Additionally, the Respondent has concealed its true identity by using a nonexistent company name ("Hesperide Soldes Magasin") and a false address in France.

The Complainant requests that the disputed domain name be transferred to the Complainant.

## **B. Respondent**

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

## **6. Discussion and Findings**

Under paragraph 4(a) of the Policy, the Complainant carries the burden of proving:

- (i) that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) that the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) that the disputed domain name has been registered and is being used in bad faith.

The Respondent's default in the case at hand does not automatically result in a decision in favor of the Complainant, however, paragraph 5(f) of the Rules provides that if the Respondent does not submit a response, in the absence of exceptional circumstances, the Panel shall decide the dispute based upon the Complaint.

Further, according to paragraph 14(b) of the Rules, the Panel may draw such inferences from the Respondent's failure to submit a response as it considers appropriate.

### **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.

Although the addition of other terms, here, “lejardin” (meaning garden in French) may bear on assessment of the second and third elements, the Panel finds the addition of such terms 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.

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.

Indeed, the Complainant has confirmed that the Respondent is not affiliated with the Complainant, or otherwise authorized or licensed to use the HESPERIDE trademark or to seek registration of any domain name incorporating the trademark. The Respondent is also not known to be associated with the HESPERIDE trademark, and there is no evidence showing that the Respondent has been commonly known by the disputed domain name. [WIPO Overview 3.0](#), section 2.3.

The disputed domain name resolves to a website that impersonates the Complainant by reproducing its trademark and copyrighted content while offering similar products at discounted prices. Previous panels have consistently held that such use of the disputed domain name does not represent a bona fide offering because it capitalizes on the reputation and goodwill of the Complainant’s trademark. Furthermore, the use of a domain name for illegal activities, such as impersonation or passing off, cannot confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

The Panel also notes that the composition of the disputed domain name creates a risk of implied affiliation or suggests sponsorship and/or endorsement by the Complainant. [WIPO Overview 3.0](#), section 2.5.1. The deliberate inclusion of the term “lejardin”, which directly relates to the Complainant’s business activities, increases the risk of confusion, making it more likely that Internet users would mistakenly believe the website is operated, endorsed, or authorized by the Complainant.

Accordingly, the Complainant has provided evidence supporting its prima facie claim that the Respondent lacks any 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.

Therefore, the Panel concludes that the Respondent does not have any rights or legitimate interests in the disputed domain name and the Complainant has met its burden under paragraph 4(a)(ii) of the Policy.

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.

On the issue of registration, the Panel observes that the Complainant's HESPERIDE trademark has been in use for many years and enjoys significant recognition in its sector. The Complainant's rights to the HESPERIDE trademark substantially predate the Respondent's registration of the disputed domain name. Given the Complainant's established reputation and the direct relevance of the added term "lejardin" (meaning garden in French) to the Complainant's business activities, it is evident that the Respondent was aware of the Complainant's rights and deliberately incorporated its trademark into the disputed domain name to increase the risk of confusion. [WIPO Overview 3.0](#), section 3.2.2

Further, the mere registration of a domain name that is confusingly similar to a well-known trademark by an unaffiliated party can, in itself, create a presumption of bad faith. [WIPO Overview 3.0](#), section 3.1.4.

In terms of use, the disputed domain name resolves to a website that impersonates the Complainant, displaying the HESPERIDE trademark, reproducing copyrighted images of the Complainant's products, and offering allegedly discounted versions of the Complainant's goods. By misleading Internet users regarding the source, sponsorship, affiliation, or endorsement of its website or the products offered on it, the Respondent has intentionally sought to attract users for commercial gain, exploiting the Complainant's goodwill. Under paragraph 4(b)(iv) of the Policy, such conduct constitutes evidence of bad faith registration and use. [WIPO Overview 3.0](#), section 3.1.4.

Panels have held that the use of a domain name for illegitimate activity, here, impersonation/passing off, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4

Additionally, the Respondent used a nonexistent company name ("Hesperide Soldes Magasin") on the website connected to the disputed domain name. This further reinforces the conclusion that the Respondent's actions were undertaken in bad faith, with the intent to deceive consumers and capitalize on the Complainant's brand recognition.

Therefore, the Panel finds that, under the circumstances of this case, the Respondent's registration and use of the disputed domain name constitute bad faith within the meaning of paragraph 4(b)(iv) of the Policy.

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 <hesperidelejardin.com> be transferred to the Complainant.

*/Alissia Shchichka/*

**Alissia Shchichka**

Sole Panelist

Date: March 26, 2025