

## **ADMINISTRATIVE PANEL DECISION**

Les Parfumeries Fragonard v. Propaganda Makers  
Case No. D2025-0063

### **1. The Parties**

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

The Respondent is Propaganda Makers, Egypt.

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

The disputed domain name <byfragonard.com> is registered with Hostinger Operations, UAB (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 8, 2025. On January 8, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 9, 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 (DOMAIN ADMIN, Privacy Protect, LLC (PrivacyProtect.org)) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 13, 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 January 15, 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 January 20, 2025. In accordance with the Rules, paragraph 5, the due date for Response was February 9, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 11, 2025.

The Center appointed Manuel Moreno-Torres as the sole panelist in this matter on February 13, 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 is a French corporation set up in the city of Grasse, doing business globally in the perfumery field. The Complainant took its company name from the local painter, Jean-Honoré Fragonard, in 1926.

The Complainant is the owner of FRAGONARD trademark in different jurisdictions. By way of example, European Union Trademark with registration number 012235941 and registered on March 12, 2014 and the French trademark “FRAGONARD”, with registration number 1327342 and registered on October 18, 1985.

The Complainant claims that it holds a portfolio of domain names incorporating FRAGONARD trademark, all redirecting to its official site “www.fragonard.com”.

The disputed domain name was registered on December 28, 2024 and resolved to a website where the Complainant’s trademark was prominently displayed without authorization and, where third-party perfumes were offered. Currently, the disputed domain name is inactive.

#### **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 site to which the disputed domain name resolved provided no data about the seller, purportedly the Respondent, and thus, no legal terms or privacy policy appeared on the website.

The Complainant also alleges that the Respondent has provided false contact information when registering the disputed domain name in breach of its registration agreement.

##### **B. Respondent**

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

#### **6. Discussion and Findings**

Under paragraph 4(a) of the Policy, to succeed the Complainant must satisfy the Panel that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or 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 was registered and is being used in bad faith.

There are no exceptional circumstances within paragraph 5(f) of the Rules to prevent the Panel from determining the dispute based upon the Complaint, notwithstanding the failure of the Respondent to file a Response. Under paragraph 14(a) of the Rules in the event of such a “default” the Panel is still required “to proceed with a decision on the complaint”, whilst under paragraph 14(b) it “shall draw such inferences therefrom as it considers appropriate”. This dispute resolution procedure is accepted by the domain name registrant as a condition of registration.

#### **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, the preposition “by” may bear on assessment of the second and third elements, the Panel finds the addition of such term 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. 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.

Indeed, none of the circumstances described in paragraph 4 (c) of the Policy can be inferred from the file.

The Panel notes that the Respondent not only reproduced the Complainant’s mark in the disputed domain name but also reproduced it on the web site to which the disputed domain name resolved, while offering for sale products of the Complainant’s competitors. The composition of the disputed domain name coupled with its previous use affirms the Respondent’s intention of taking unfair advantage of the likelihood of confusion

between the disputed domain name and the Complainant as to the origin or affiliation of the website at the dispute domain name.

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.

In the present case, the Panel notes that the Respondent intentionally attempted to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant's mark in the same terms depicted in paragraph 4(b)(iv) of the Policy.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Panels have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the distinctiveness or reputation of the Complainant's trademark, the composition and previous use of the disputed domain name, and finds that in the circumstances of this case the current passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

The Panel also finds that the Respondent knew or should have known about the Complainant and its trademarks due to their reputation when registering the disputed domain name. Besides, by displaying the Complainant's mark on the site to which the disputed domain name directed the Respondent shows its knowledge of the Complainant. This previous knowledge indicates that the registration was in bad faith.

Further, the Respondent provided false or incomplete contact details, which prevented the courier from delivering the Center's written communication and which supports a finding of bad faith.

Lastly, the lack of credible explanation for the Respondent's choice of the disputed domain name coupled with its previous use supports, under the circumstances of the case, a finding of bad faith use and registration.

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 <byfragonard.com> be transferred to the Complainant.

*/Manuel Moreno-Torres/*

**Manuel Moreno-Torres**

Sole Panelist

Date: February 27, 2025