

ADMINISTRATIVE PANEL DECISION

JJA v. Brown Janice
Case No. D2025-1569

1. The Parties

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

The Respondent is Brown Janice, United States of America.

2. The Domain Name and Registrar

The disputed domain name <hesperidegardens.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 April 17, 2025. On April 22, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 23, 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 (Redacted for privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 24, 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 amendment to the Complaint on April 28, 2025.

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 April 30, 2025. In accordance with the Rules, paragraph 5, the due date for Response was May 20, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on May 21, 2025.

The Center appointed Estela Mariel de Luca as the sole panelist in this matter on May 27, 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.

The Panel has not received any requests from the Complainants or the Respondent regarding further submissions, waivers or extensions of deadlines, and the Panel has not found it necessary to request any further information from the Parties.

The language of the proceeding is English, being the language of the Registration Agreement, as per paragraph 11(a) of the Rules.

4. Factual Background

The Complainant, JJA, is a France-based international company founded in 1976, operating in the home furnishings and décor sector.

The Complainant is the owner of the Hesperide brand, which specializes in garden furniture, and holds multiple trademark registrations for HESPERIDE worldwide, including the following:

- International Trademark Registration No. 1044063, designating numerous countries, for the figurative mark  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 also holds several domain names incorporating the HESPERIDE mark, such as <hesperide.com>, registered on July 31, 2008, and <hesperide.fr>, registered on November 25, 2015. In contrast, the disputed domain name <hesperidegardens.com> was registered on February 13, 2025. The disputed domain name resolves to a webpage reproducing the Complainant's images and products names.

The Complainant cites several prior UDRP decisions involving domain names incorporating the HESPERIDE mark in which it has prevailed.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied all three elements under the Policy to warrant the transfer of the disputed domain name.

Notably, the Complainant argues that the disputed domain name <hesperidegardens.com> wholly incorporates its trademark HESPERIDE, and that the addition of the term "gardens" – which describes the Complainant's activities under HESPERIDE trademark – reinforces an association with the Complainant.

The Complainant asserts that the Respondent has no rights or legitimate interests in the disputed domain name <hesperidegardens.com> and has not been authorized to use the HESPERIDE trademark. On the contrary, the disputed domain name resolves to a fraudulent website that unlawfully displays the Complainant's products – using copyrighted images and product names from the official site.

The Complainant contends that the Respondent registered and is using the disputed domain name <hesperidegardens.com> in bad faith. According to the Complainant, the Respondent was clearly aware of

the Complainant's rights and has directed users to a fraudulent website that imitates the Complainant's offerings, thereby creating a likelihood of confusion and constituting an attempt to exploit the Complainant's goodwill and reputation associated with the HESPERIDE trademark.

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;
- (ii) that the Respondent has no rights or legitimate interests in respect of the disputed domain name;
- (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 HESPERIDE 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 term "gardens" 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 mainly considering that it is a descriptive term and closely related to the Complainant's line of business. [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.

The Complainant has clearly stated that the Respondent has no connection with it and has not been granted any authorization or license to use the HESPERIDE trademark or to register domain names containing it. Additionally, there is no indication that the Respondent has any association with the HESPERIDE mark, nor any evidence suggesting that the Respondent has ever been commonly identified 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 copyrighted content while allegedly offering the Complainant’s products at significantly reduced prices. Panels have held that the use of a domain name for illegal activities – such as impersonation or passing off – can never confer rights or legitimate interests on a respondent. See [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.

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 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.

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.

The evidence demonstrates that the Complainant holds long-standing rights to the HESPERIDE trademark, which predate the Respondent’s registration of the disputed domain name. In light of the Complainant’s established reputation and the direct relevance of the term “garden” to its business, the Respondent’s incorporation of the Complainant’s trademark in the disputed domain name indicates an intent to cause confusion. [WIPO Overview 3.0](#), section 3.2.2.

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 addition, 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.

As has been observed, the Respondent used copyrighted images on the website of the disputed domain name to offer garden furniture at low prices. This further reinforces the conclusion that the Respondent's actions were undertaken in bad faith, with the intent of deceiving consumers and taking advantage of the Complainant's brand recognition. [WIPO Overview 3.0](#), section 3.2.2. In addition, 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.

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 <hesperidegardens.com> be transferred to the Complainant.

/Estela Mariel de Luca/

Estela Mariel de Luca

Sole Panelist

Date: June 8, 2025