ARBITRATION
AND
MEDIATION CENTER

WIPO
WORLD
INTELLECTUAL PROPERTY
ORGANIZATION

ADMINISTRATIVE PANEL DECISION
Jardiland v. Mostafa Hamzaoui, TurNet IT
Case No. D2025-1793

1. The Parties

The Complainant is Jardiland, France, represented by Fidal, France.

The Respondent is Mostafa Hamzaoui, TurNet IT, Belgium.

2. The Domain Names and Registrar

The disputed domain names <jardyland.com>, <jardyland.shop>, and <jardyland.store> are registered with Key-Systems GmbH (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on May 5, 2025. On May 5, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On May 8, 2025, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names 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 May 9, 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 May 13, 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 May 16, 2025. In accordance with the Rules, paragraph 5, the due date for Response was June 5, 2025. The Respondent sent email communications to the Center on May 20 and June 3, 2025. The Respondent sent an additional email communication to the Center on June 11, 2025. On June 16, 2025, the Center informed the Parties that it would proceed with the panel appointment process.

The Center appointed Luca Barbero as the sole panelist in this matter on June 21, 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 retailer specializing in gardening, pet supplies, and home decor. It operates a network of stores, including both company-owned and franchised locations, and also has an e-commerce platform at "www.jardiland.com".

The Complainant has provided evidence of ownership of numerous trademarks consisting of, or comprising, JARDILAND, including the following:

- International trademark registration No. 1268138 for JARDILAND (word mark), registered on April 14, 2015, in classes 1, 5, 7, 31, 35 and 44, designating, amongst others, European Union;

- International trademark registration No. 1627350 for JARDILAND (figurative mark), registered on June 2, 2021, in classes 1, 5, 7, 8, 18, 20, 31, 35 and 44, designating, amongst others, European Union.

The Complainant is also the owner of the domain name <jardiland.com>, which was registered on January 12, 2000, and is used by the Complainant in connection with its e-commerce platform.

The disputed domain names <jardyland.com>, <jardyland.shop>, and <jardyland.store> were all registered on November 22, 2024. At present, the disputed domain names <jardyland.shop> and <jardyland.store> are not pointing to active websites, whilst <jardyland.com> resolves to an undeveloped WordPress blog. The Complainant stated, and the Respondent has not denied, that all the disputed domain names did not previously resolve to active websites.

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 names.

Notably, the Complainant contends that the disputed domain names <jardyland.com>, <jardyland.shop> and <jardyland.store> are confusingly similar to the trademark JARDILAND in which the Complainant has rights as they reproduce the trademark in its entirety with a mere one letter difference, since the letter "i" in the Complainant's mark has been substituted by a "y". The Complainant states that the modification of one single letter does not prevent a finding of confusing similarity and concludes that such misspelling is commonly considered as typosquatting.

The Complainant states that the Respondent has no rights or legitimate interests in respect of the disputed domain names because: i) there is no business or legal relationship between the Complainant and the Respondent and the Respondent has not been authorized by the Complainant to use the JARDILAND mark; ii) the Respondent is not commonly known by the disputed domain names; and iii) the Respondent is not using the disputed domain names in connection with a bona fide offering of goods or services or a legitimate use since the disputed domain names <jardyland.shop> and <jardyland.store> do not resolve to active websites whilst the disputed domain name <jardyland.com> was originally not directed to an active website while currently resolves to an undeveloped blog. The Complainant concludes that the Respondent registered the disputed domain names in a deliberate attempt to create confusion with the Complainant's business, by leading users into thinking the disputed domain names may be associated to the Complainant.

The Complainant further states that, considering the Complainant's marks long predate the registration date of the disputed domain names and in view of the reputation of the Complainant's JARDILAND mark, the Respondent registered the disputed domain names being aware of the Complainant's mark, with the aim of taking advantage of the reputation of the mark.

The Complainant also submits that the Respondent's passive holding of the disputed domain names amounts to bad faith, that typosquatting is itself evidence of bad faith and that the only explanation for the registration and use of the disputed domain names is the desire to disrupt the Complainant's relation with its actual or potential customers or to attempt to attract Internet users for the Respondent's own commercial gain.

B. Respondent

The Respondent did not submit a formal Response but sent four informal communications to the Center.

In its email communication of May 20, 2025, the Respondent states that it is not the actual owner of the disputed domain names as it provides technical assistance and domain registration services and registered the disputed domain names for a client which owns a restaurant named "Jardyland", based in Abidjan, Ivory Coast. The Respondent further states that it was not aware of any potential trademark conflict when assisting in the registration of the disputed domain names.

In two further informal communications to the Center dated June 3, 2025, the Respondent, however, acknowledges its direct responsibility as registrant of the disputed domain names despite having registered them on behalf of the Jardyland restaurant, the site of which is available at "www.restaurantjardyland.com", and states that, despite in its view the one letter difference is sufficient to differentiate the disputed domain names from the Complainant's mark, it would be open to resolve the matter amicably by selling the disputed domain names to the Complainant.

In its last informal communication dated June 11, 2025, the Respondent reiterates the proposal to the Complainant regarding the sale of the three disputed domain names and specifies that, if the Complainant decides not to pursue the purchase option, it would continue to use the disputed domain names for its client's business.

6. Discussion and Findings

According to paragraph 15(a) of the Rules: "A Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable." Paragraph 4(a) of the Policy directs that the Complainant must prove each of the following:

(i) that the disputed domain names registered by the Respondent are 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 names; and

(iii) that the disputed domain names have been registered and are being used in bad faith.

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. Indeed, the Complainant has provided evidence of ownership of valid trademark registrations for JARDILAND.

The Panel finds the mark is recognizable within the disputed domain names. Indeed, the disputed domain names differ from the Complainant's mark only by the replacement of the letter "i" with the letter "y". Accordingly, the disputed domain names are confusingly similar to the mark for the purposes of the Policy. WIPO Overview 3.0, section 1.7.

As to the generic Top-Level Domains ("gTLDs") ".com", ".shop", and ".store", these can be disregarded under the first element confusing similarity test. WIPO Overview 3.0, section 1.11.

Therefore, 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 names and that the Respondent has not come forward with relevant evidence demonstrating rights or legitimate interests in the disputed domain names such as those enumerated in the Policy or otherwise.

The Panel notes that there is no relation, disclosed to the Panel or otherwise apparent from the record, between the Respondent and the Complainant. The Respondent is not a licensee of the Complainant, nor has the Respondent otherwise obtained an authorization to use the Complainant's trademark.

Moreover, there is no element from which the Panel could infer that the Respondent has rights in the disputed domain names, or that the Respondent might be commonly known by the disputed domain names.

The Panel also finds that the Respondent has not used the disputed domain names in connection with a bona fide offering of goods or services or a legitimate noncommercial or fair use without intent for commercial gain to misleadingly divert consumers or to tarnish the Complainant's trademark.

Indeed, two of the disputed domain names do not resolve to active websites and one is directed to an undeveloped blog. Moreover, the Respondent initially claimed to have registered the disputed domain names on behalf of a restaurant named "Jardyland" located in Ivory Coast, but has not provided any evidence of use, or preparations to use, the disputed domain names in connection with the promotion of the activities of the mentioned restaurant, nor has it provided any evidence to demonstrate that the disputed domain names were actually registered on behalf of such third party.

Furthermore, in its subsequent email communications to the Center, the Respondent indicated that it was the direct responsible entity for the disputed domain names and was willing to sell them to the Complainant. In this Panel's view, these statements are not consistent with the previously claimed registration of the disputed

domain names on behalf of a third party, also in light of the fact that no reference was made to the latter's possible consent to transfer the disputed domain names and/or to its availability to give up the disputed domain names.

The Panel further considers that, even assuming the Respondent provided its services to the mentioned restaurant, registering the related domain name <restaurantjardyland.com> on its behalf (circumstance which cannot be ascertained via a public WhoIs search being the registrant's data redacted for privacy) and/or additional domain names, this would not automatically entail a Respondent's right or legitimate interest in the disputed domain names in absence of further evidence showing that the disputed domain names were actually registered on behalf of, and for the benefit of, the cited restaurant.

Therefore, based on the records, the Panel finds that, on balance of probabilities, the second element of the Policy has also 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, in view of the Complainant's prior registration and use of the trademark JARDILAND in connection with the Complainant's sales of products in the field of gardening, pet supplies, and home decor in France and other countries and considering the Complainant also operates its e-commerce platform at "www.jardiland.com", the Panel finds that the Respondent – which is based in Belgium where the Complainant also operates – knew or should have been aware of the Complainant's trademark at the time of registration of the disputed domain names.

As indicated in section 3.2.2 of the WIPO Overview 3.0, "Noting the near instantaneous and global reach of the Internet and search engines, and particularly in circumstances where the complainant's mark is widely known (including in its sector) or highly specific and a respondent cannot credibly claim to have been unaware of the mark (particularly in the case of domainers), panels have been prepared to infer that the Respondent knew, or have found that the Respondent should have known, that its registration would be identical or confusingly similar to a complainant's mark".

The Panel also finds that, notwithstanding the Respondent asserted to have registered the disputed domain names on behalf of a restaurant named "Jardyland" located in Ivory Coast, the lack of evidence to substantiate such allegation, the Respondent's indication that it would be willing to sell the disputed domain names to the Complainant and the gTLDs ".shop" and ".store" in which two of the disputed domain names are registered – which suggest a connection with the sales of goods as opposed to restaurant services, support the conclusion that, on balance of probabilities, the Respondent registered the disputed domain names being aware of the Complainant and its trademark and to obtain some commercial gain.

As to the use of the disputed domain names, they were all initially not directed to active websites and, currently, only the disputed domain name <jardyland.com> resolves to an active webpage, which however consists of a default page of a WordPress blog displaying no content published by the Respondent and could thus be considered as passive holding. 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 of the Complainant's trademark, the composition of the disputed domain names and the failure of the Respondent to provide evidence of actual or contemplated good-faith use of the disputed domain names, and finds that in the circumstances of this case, the passive holding of the disputed domain names does not prevent a finding of bad faith under the Policy.

The Panel also finds that the Respondent's offer to sell the disputed domain names to the Complainant, which is in contrast with its allegation that it registered the disputed domain names for a third party, is a further element demonstrating the Respondent's bad faith.

Therefore, the Panel finds the third element of the Policy has been established as well.

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 names <jardyland.com>, <jardyland.shop>, and <jardyland.store> be transferred to the Complainant.

/Luca Barbero/
Luca Barbero
Sole Panelist
Date: July 5, 2025