

ADMINISTRATIVE PANEL DECISION

Ganni A/S v. Chunmei Tang
Case No. D2022-1954

1. The Parties

Complainant is Ganni A/S, Denmark, represented by Bech-Bruun Law Firm, Denmark.

Respondent is Chunmei Tang, China.

2. The Domain Name and Registrar

The disputed domain name <gannisoldes.com> (the “Disputed Domain Name”) is registered with Name.com, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 30, 2022. On May 30, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On May 31, 2022, the Registrar transmitted by email to the Center its verification response confirming that Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 Respondent of the Complaint, and the proceedings commenced on June 3, 2022. In accordance with the Rules, paragraph 5, the due date for Response was June 23, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on June 24, 2022.

The Center appointed Richard W. Page as the sole panelist in this matter on July 4, 2022. 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

Complainant was founded in 1999 and is a well-known and very successful top-tier Danish fashion company who designs, manufactures, markets, and sells clothing, footwear, and accessories for women.

Complainant is represented in more than 600 of the world's finest retailers and owns a number of concept stores in *inter alia* Denmark, United States of America ("United States"), United Kingdom, Norway, and Sweden. Complainant is known worldwide for its distinctively famous designs. Complainant's website is "www.ganni.com". Complainant trades under the well-known name and trademark GANNI. Complainant is also the holder of a number of trademark registrations for the "GANNI Mark," including without limitation: European Union (EU) Trade Mark No. 1158682 for GANNI (registered on October 10, 2012) and United States Trademark Registration No. 4797147 for GANNI (registered on August 25, 2015).

Since 2000, Complainant has owned and maintained a website promoting its products under the domain name <ganni.com>.

The Disputed Domain Name resolves to a website that promotes a French online shop selling clothing under the GANNI brand.

The Disputed Domain Name was registered on December 31, 2021.

5. Parties' Contentions

A. Complainant

Complainant contends that its company name and GANNI Mark are well known in relation to clothing. A search made in May 2022 showed 20,400 hits for "GANNI".

Complainant further contends that the Disputed Domain Name is confusingly similar to the GANNI Mark because GANNI has a high degree of distinctiveness and is well-known in many countries due to widespread international use and promotion. The Disputed Domain Name wholly incorporates the GANNI Mark, merely combining it with the French term "soldes" meaning "sales" in English and the generic Top-Level Domain ("gTLD") suffix ".com".

Complainant further contends that the Disputed Domain Name makes little effort to conceal or mask the use of the GANNI Mark. The fact that the Disputed Domain Name includes the term "soldes" is in itself insufficient to avoid a likelihood of confusion between the Disputed Domain Name and the GANNI Mark.

Complainant submits that Respondent has no rights or legitimate interests in respect of the Disputed Domain Name.

Complainant further submits that Respondent is not an official manufacturer, distributor, or retailer of GANNI products, nor has been authorized the use of Complainant's company name or GANNI Mark in any way.

Complainant further submits that, according to searches made in the relevant official trademark databases, Complainant has not found any evidence indicating that Respondent is the owner of any trademark similar to the Disputed Domain Name. Considering that the term "ganni" is a distinctive and arbitrary term for the relevant goods and services, Respondent's registration of the Disputed Domain Name cannot be a coincidence.

Complainant further submits that the Disputed Domain Name is being used for phishing or is used to sell counterfeit goods considering the lack of information on the company behind the online shop. A French address is provided on the online shop, which according to Google Maps is a private apartment building, and the Returns and Exchange section mentions that products might be shipped from or returned to China.

Complainant further submits that Respondent's registration of the Disputed Domain Name should be considered to be for attracting Internet users to the website under the Disputed Domain Name for commercial gain. Respondent does so by creating a likelihood of confusion with the GANNI Mark as to the source, sponsorship, affiliation, or endorsement of the website under the Disputed Domain Name and by profiting on and taking advantage of the reputation of Complainant's well-known trademark to attract Internet users and potential customers to the website under the Disputed Domain Name.

Complainant further submits that the relevant public will be led to believe that the website is owned by or related to Complainant, especially since it is not possible to understand the lack of relationship between Complainant and Respondent from the website. Such association by the public between Respondent's website and Complainant will undoubtedly be detrimental to Complainant's reputation and the GANNI Mark and unlawfully impersonates or suggests sponsorship or endorsement by Complainant.

Complainant further submits that it has not licensed or otherwise authorized Respondent to use GANNI Mark or to apply for or to register any domain name incorporating the GANNI Mark. There is no business relationship between Complainant and Respondent. Consequently, the Disputed Domain Name is not used in connection with a *bona fide* offering of goods or services, nor can such use confer rights or legitimate interests in the Disputed Domain Name to Respondent.

Complainant alleges that the Disputed Domain Name has been registered and is being used in bad faith and that Respondent is using the Disputed Domain Name to attract Internet users to his website.

Complainant further alleges that Respondent appears to have acquired the Disputed Domain Name in December 2021. The GANNI Mark was registered many years prior. Complainant has used the GANNI Mark since 2012 and the company name Ganni A/S for many more years. Complainant just recently opened two flag-ship stores in Paris in Marias and in Saint-Honoré and sells directly in China via Tmall, which is why it is unlikely that Respondent is unaware of the GANNI Mark.

Complainant further alleges that Respondent's website under the Disputed Domain Name has a large quantity of both very old styles and new styles of GANNI products are being marketed and offered for sale.

Complainant further alleges that Respondent's website features photos of a number of GANNI products. Complainant, therefore, finds it highly unlikely that Respondent is unaware of the GANNI Mark and of the activities of Complainant.

Complainant further alleges that Respondent's initial intention with the registration of Disputed Domain Name is to profit from an illegal exploitation of the reputation related to the GANNI Mark. Respondent is likely to divert Internet traffic to the website to which the Disputed Domain Name resolves and deceive the Internet users into believing the website is connected to Complainant, and thereby potentially harming and tarnishing Complainant's reputation and the GANNI Mark.

Complainant further alleges that Respondent has shown no evidence of any actual or contemplated good faith use of the Disputed Domain Name. On the contrary, the Disputed Domain Name is deigned to imply that there is an affiliation between Respondent and Complainant even though no such affiliation or endorsement exists.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

Paragraph 15(a) of the Rules instructs the Panel as to the principles the Panel is to use in determining the dispute: “A Panel shall decide a complaint on the basis of the statements and documents submitted in accordance with the Policy, these Rules, and any rules and principles of law that it deems applicable.”

Even though Respondent has failed to file a Response or to contest Complainant’s contentions, the Panel will review the evidence proffered by Complainant to verify that the essential elements of the claims are met.

See section 4.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”).

Paragraph 4(a) of the Policy directs that Complainant must prove each of the following:

- i) that the Disputed Domain Name is identical or confusingly similar to the GANNI Mark in which Complainant has rights; and
- ii) that 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.

A. Identical or Confusingly Similar

Section 1.2.1 of the [WIPO Overview 3.0](#) states that registration of a trademark is *prima facie* evidence of Complainant having enforceable rights in the GANNI Mark.

Complainant contends it owns registrations for the GANNI Mark, including without limitation: EU Trademark Registration No. 1158682 GANNI (2012) and US Trademark Registration No. 4797147 GANNI (2012). Respondent has not contested these contentions.

Therefore, the Panel finds for purposes of this proceeding that Complainant has enforceable rights in the GANNI Mark.

Section 1.7 of the [WIPO Overview 3.0](#) says that inclusion of the entire trademark in a domain name will be considered confusingly similar. Also, section 1.8 of the [WIPO Overview 3.0](#) instructs that the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) does not prevent a finding of confusing similarity. Also, section 1.11.1 of the [WIPO Overview 3.0](#) instructs that gTLDs such as “.com” may be disregarded for purposes of assessing confusing similarity.

The Disputed Domain Name wholly incorporates the GANNI Mark, merely combining it with the French term “soldes” meaning “sales” in English and the gTLD suffix “.com”.

Respondent has not contested these contentions.

The Panel finds, based upon this record, that the Disputed Domain Name is confusingly similar to the GANNI Mark, pursuant to paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Complainant submits that Respondent lacks rights and legitimate interests in the Disputed Domain Name, pursuant to paragraph 4(a)(ii) of the Policy.

Section 2.1 of the [WIPO Overview 3.0](#) states that once Complainant makes out a *prima facie* case in respect of the lack of rights or legitimate interests of Respondent, Respondent carries the burden of demonstrating

he has rights or legitimate interests in the Disputed Domain Name. Where Respondent fails to do so, Complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy.

Paragraph 4(c) of the Policy allows three nonexclusive methods for the Panel to conclude that Respondent has rights or a legitimate interests in the Disputed Domain Name:

(i) before any notice to you [Respondent] of the dispute, your use of, or demonstrable preparations to use, the Disputed Domain Name or a name corresponding to the Disputed Domain Name in connection with a *bona fide* offering of goods or services; or

(ii) you [Respondent] (as an individual, business, or other organization) have been commonly known by the Disputed Domain Name, even if you have acquired no trademark or service mark rights; or

(iii) you [Respondent] are making a legitimate noncommercial or fair use of the Disputed Domain Name, without intent for commercial gain to misleadingly divert consumers or to tarnish the GANNI Mark.

Complainant submits that Respondent is not an official manufacturer, distributor, or retailer of GANNI products, nor has been authorized the use of Complainant's company name or GANNI mark in any way.

Complainant further submits that, according to searches made in the relevant official trademark databases, Complainant has not found any evidence indicating that Respondent is the owner of any trademark similar to the Disputed Domain Name. Considering that the term "ganni" is a distinctive and arbitrary term for the relevant goods and services, Respondent's registration of the Disputed Domain Name should not be a coincidence. Consequently, the Disputed Domain Name is not used to connection with a *bona fide* offering of goods or services, nor can such use confer rights or legitimate interests in the Disputed Domain Name to Respondent.

The Panel finds that Complainant has made out a *prima facie* case that Respondent lacks rights or legitimate interests in the Disputed Domain Name.

Respondent has not contested these submissions.

Therefore, the Panel finds that Complainant has established requisites of paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Complainant contends that Respondent registered and is using the Disputed Domain Name in bad faith in violation of paragraph 4(a)(iii) of the Policy.

Paragraph 4(b) of the Policy sets forth four nonexclusive criteria for Complainant to show bad faith registration and use of the Disputed Domain Name:

(i) circumstances indicating that you [Respondent] have registered or you have acquired the Disputed Domain Name primarily for the purpose of selling, renting, or otherwise transferring the Disputed Domain Name registration to Complainant who is the owner of the GANNI Mark or to a competitor of Complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the Disputed Domain Name; or

(ii) you [Respondent] have registered the Disputed Domain Name in order to prevent Complainant from reflecting the GANNI Mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct; or

(iii) you [Respondent] have registered the Disputed Domain Name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the Disputed Domain Name, you [Respondent] have intentionally attempted to attract, for commercial gain, Internet users to your website or other online location, by creating a likelihood of confusion with the GANNI Mark as to the source, sponsorship, affiliation, or endorsement of your website or location or of a product on your website or location.

The four criteria set forth in paragraph 4(b) of the Policy are nonexclusive. See, *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#). In addition to these criteria, other factors alone or in combination can support a finding of bad faith. See section 3.2.2 of the [WIPO Overview 3.0](#), which states that in circumstances where Complainant's mark is widely known (including in its sector) or highly specific, and Respondent cannot credibly claim to have been unaware of the mark, it can be inferred that Respondent knew, or should have known, that its registration would be identical or confusingly similar to Complainant's mark.

Complainant alleges that Respondent's registration of the Disputed Domain Name must be considered to be for attracting Internet users to the website under the Disputed Domain Name for commercial gain. Respondent does so by creating a likelihood of confusion with the GANNI Mark as to the source, sponsorship, affiliation or endorsement of the website under the Disputed Domain Name and by profiting on and taking advantage of the reputation of Complainant's well-known trademark to attract Internet users and potential customers to the website under the Disputed Domain Name.

Complainant further alleges that Respondent appears to have acquired the Disputed Domain Name in December 2021. The GANNI Mark was registered many years prior. Complainant has used the GANNI Mark since 2012 and the company name Ganni A/S for many more years. Complainant just recently opened two flag-ship stores in Paris in Marias and in Saint-Honoré and sells in China via Tmall, which is more evidence why Respondent is aware of the GANNI Mark.

The Panel finds that Complainant has proved the requirements of paragraph 4(b)(iv) of the Policy and has shown other factors supporting a finding of bad faith.

Therefore, Complainant has proven the requirements of paragraph 4(a)(iii) 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, <gannisoldes.com>, be transferred to Complainant.

/Richard W. Page/

Richard W. Page

Sole Panelist

Date: July 17, 2022