

## **ADMINISTRATIVE PANEL DECISION**

Ann Summers Limited v. hetaojian  
Case No. D2022-2434

### **1. The Parties**

Complainant is Ann Summers Limited, United Kingdom, represented by SafeNames Ltd., United Kingdom.

Respondent is hetaojian, China.

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

The disputed domain name <annsummers.com> is registered with Alibaba.com Singapore E-Commerce Private Limited (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 5, 2022. On July 5, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 6, 2022, 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 and contact information in the Complaint. The Center sent an email communication to Complainant on July 7, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on July 7, 2022.

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 Respondent of the Complaint, and the proceedings commenced on July 12, 2022. In accordance with the Rules, paragraph 5, the due date for Response was August 1, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on August 3, 2022.

The Center appointed Lorelei Ritchie as the sole panelist in this matter on August 10, 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 is a multinational retailer based in Surrey, in the United Kingdom.

For decades prior to the registration of the disputed domain name, Complainant has sold various items under its mark ANN SUMMERS, including lingerie and adult-themed accessories. Complainant owns several trademark registrations for the mark ANN SUMMERS with a design element for related goods and services. These include, among others, International Registration No. 1236960 (registered April 17, 2014) and European Union Registration No. 000048421 (registered October 5, 1998). Complainant further owns the registration for the domain name <annsummers.com> (registered August 14, 1995), which Complainant uses to inform consumers about its products and services.

The disputed domain name was registered on April 24, 2021. Respondent has used the URL associated with the disputed domain name to connect users to a website advertising various online betting and pornographic material. Respondent has no affiliation with Complainant, and Complainant has not authorized any activities by Respondent, nor any use of its trademarks thereby.

#### **5. Parties' Contentions**

##### **A. Complainant**

Complainant contends that (i) the disputed domain name is identical or confusingly similar to Complainant's trademarks, (ii) Respondent has no rights or legitimate interests in the disputed domain name; and (iii) Respondent registered and is using the disputed domain name in bad faith.

Specifically, Complainant contends that its ANN SUMMERS mark enjoys a "strong reputation" internationally, particularly with regard to the lingerie and associated adult-themed items sold by Complainant under the mark. Complainant contends that Respondent has incorporated a deliberate misspelling of Complainant's well-known ANN SUMMERS mark into the disputed domain name, using a deliberate and obvious misspelling, simply replacing the second "m" with the letter "n," which is adjacent, both alphabetically, and on most keyboards. Complainant contends that Respondent lacks rights or legitimate interests in the disputed domain name, and rather has registered and is using it in bad faith, having simply acquired the disputed domain name for Respondent's own commercial gain.

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

Respondent did not reply to Complainant's contentions.

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

##### **A. Identical or Confusingly Similar**

The Panel must first determine whether the disputed domain name <annsumners.com> is identical or confusingly similar to a trademark or service mark in which Complainant has rights in accordance with paragraph 4(a)(i) of the Policy. The Panel finds that it is. The disputed domain name incorporates in full Complainant's ANN SUMMERS mark, with an apparent misspelling thereof.

Where a domain name registrant deliberately registers a common misspelling of a well-known mark in order to divert consumer traffic, this indicates a practice known as "typosquatting". Other UDRP panels have routinely found typosquatted domain names to be "confusingly similar" for purposes of a finding under the

UDRP. See *Edmunds.com, Inc. v. Yingkun Guo, dba This domain name is 4 sale*, WIPO Case No. [D2006-0694](#) (<edunds.com>); *Disney Enterprises, Inc. v. John Zuccarini, Cupcake City and Cupcake Patrol*, WIPO Case No. [D2001-0489](#) (<disneychannel.com>, <disneywold.com>, <walddisney.com>); See also *Credit Karma, Inc. v. Domain Admin, Whols Privacy Corp.*, WIPO Case No. [D2017-0194](#) (<credidkarma.com>).

The Panel therefore finds that the disputed domain name is confusingly similar to a trademark in which Complainant has rights in accordance with paragraph (4)(a)(i) of the Policy.

### **B. Rights or Legitimate Interests**

The Panel next considers whether Complainant has shown that Respondent has no “rights or legitimate interest,” as must be proven to succeed in a UDRP dispute. Paragraph 4(c) of the Policy gives examples that might show rights or legitimate interests in a domain name. These examples include: (i) use of the domain name “in connection with a *bona fide* offering of goods or services;” (ii) demonstration that respondent has been “commonly known by the domain name;” or (iii) “legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.”

No evidence has been presented to the Panel that might support a claim of Respondent’s rights or legitimate interests in the disputed domain name, and Respondent has no license from, or other affiliation with, Complainant. Therefore, the Panel finds that Complainant has provided sufficient evidence of Respondent’s lack of “rights or legitimate interests” in accordance with paragraph 4(a)(ii) of the Policy which Respondent has not rebutted.

### **C. Registered and Used in Bad Faith**

There are several ways that a complainant can demonstrate that a domain name was registered and used in bad faith. For example, paragraph 4(b)(iv) of the Policy states that bad faith can be shown where “by using the domain name [respondent has] intentionally attempted to attract, for commercial gain, Internet users to [respondent’s] website or other online location, by creating a likelihood of confusion with the complainant’s mark as to the source, sponsorship, affiliation, or endorsement of [respondent’s] website or location or of a product or service on [the] website or location.” As noted in section 4 of this Panel’s decision, Respondent has used the URL associated with the disputed domain name to connect Internet users to a website advertising various online betting and pornographic material.

Hence, Respondent is trading on the goodwill of Complainant’s trademarks to attract Internet users, presumably for Respondent’s own commercial gain. Therefore, the Panel finds that Respondent has registered and used the disputed domain name in bad faith for purposes 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 <annsumners.com> be transferred to Complainant.

*/Lorelei Ritchie/*

**Lorelei Ritchie**

Sole Panelist

Date: August 19, 2022