

ADMINISTRATIVE PANEL DECISION

Anna Quan Pty Ltd v. Tingting Jiang
Case No. D2022-3474

1. The Parties

The Complainant is Anna Quan Pty Ltd, Australia, represented internally.

The Respondent is Tingting Jiang, China.

2. The Domain Name and Registrar

The disputed domain name <annaquanshop.com> 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 September 20, 2022. On September 20, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same date, the Registrar transmitted by email to the Center its verification response confirming that the 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 the Respondent of the Complaint, and the proceedings commenced on September 22, 2022. In accordance with the Rules, paragraph 5, the due date for Response was October 12, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 13, 2022.

The Center appointed Miguel B. O’Farrell as the sole panelist in this matter on October 26, 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

The Complainant is an Australian company that operates in the contemporary fashion clothing business under the trademark ANNA QUAN, and claims to supply or have supplied goods to wholesalers or retail customers since its formation in 2013 in countries all around the world, including Australia, United States of America, China, United Kingdom, Germany, Spain, France, Israel, United Arab Emirates, South Africa, and New Zealand.

The Complainant owns several registrations for the word mark ANNA QUAN in many jurisdictions, including the following:

International Trademark Registration No.1410753 ANNA QUAN, registered on April 12, 2018, in class 25;

Australian Trademark Registration No.1884986 ANNA QUAN, registered on November 4, 2017, in classes 11, 25 and 35;

China Trademark Registration No.G1410753 ANNA QUAN, registered on April 12, 2018, in class 25; and

United States of America Trademark Registration No. 6031381 ANNA QUAN, registered on April 14, 2020, in class 25.

The Complainant operates a website at “www.annaquan.com” which includes an e-commerce platform where it offers primarily dresses and other garments for women.

The disputed domain name <annaquamshop.com> was registered on May 12, 2022, and resolves to a webpage which offers women garments similar to those offered by the Complainant.

5. Parties' Contentions

A. Complainant

The Complainant, in essence, claims that the disputed domain name is confusingly similar with the trademark ANNA QUAN in which the Complainant has rights and that the Respondent has no rights or legitimate interests in the disputed domain name, which was registered and is being used in bad faith.

More specifically, the Complainant has no relationship or affiliation with the Respondent.

The Complainant has not authorized or licensed the use of the trademark ANNA QUAN to the Respondent.

The Respondent has no rights in, nor does it have any legitimate interests in the disputed domain name.

The webpage at the disputed domain name contains images that are identical to images authored by or on behalf of the Complainant, in which copyright subsists. The Complainant provided evidence of an extract of the webpage at the disputed domain name and a table comparing a sample of those images found on that webpage against the Complainant's copyright.

Finally, the Complainant requests the Panel to issue a decision ordering 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

According to paragraph 4(a) of the Policy, for this Complaint to succeed in relation to the disputed domain name, the Complainant must prove each of the following, namely that:

- (i) the disputed domain name is identical or confusingly similar with a trademark or service mark in which the Complainant has rights; and
- (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.

A. Identical or Confusingly Similar

The Panel is satisfied that the Complainant has proved to have rights in the trademark ANNA QUAN.

As set forth in section 1.7 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") the standing test for confusing similarity involves a reasoned but relatively straightforward comparison between the trademark and the disputed domain name to determine whether the disputed domain name is confusingly similar with the trademark. The test involves a side-by-side comparison of the disputed domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name.

The Panel considers that the disputed domain name is confusingly similar with the Complainant's ANNA QUAN trademark.

The disputed domain name <annaquanshop.com> incorporates the Complainant's trademark ANNA QUAN in its entirety with the addition of the term "shop", which certainly does not prevent a finding of confusing similarity.

The ".com" generic Top-Level Domain ("gTLD") is viewed as a standard registration requirement and is generally disregarded under the first element confusing similarity test, as set forth in section 1.11 of [WIPO Overview 3.0](#).

Accordingly, the Panel finds that the disputed domain name is confusingly similar to the trademark ANNA QUAN in which the Complainant has rights and that the requirements of paragraph 4(a)(i) of the Policy are fulfilled.

B. Rights or Legitimate Interests

Pursuant to paragraph 4(c) of the Policy, a respondent may establish rights to or legitimate interests in a domain name by demonstrating any of the following non-exclusive defenses:

- (i) before any notice to it of the dispute, the respondent's use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services; or
- (ii) the respondent has been commonly known by the domain name, even if it has acquired no trademark or service mark rights; or
- (iii) the respondent is making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain, to misleadingly divert consumers.

Although the Policy addresses ways in which a respondent may demonstrate rights or legitimate interests in a disputed domain name, it is well established, as it is put in section 2.1 of [WIPO Overview 3.0](#), that a complainant is required to make out a *prima facie* case that the respondent lacks rights or legitimate interests in the domain name. Once such *prima facie* case is made, the burden of production shifts to the

respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the disputed domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element.

There is no evidence in the present case that the Respondent has been commonly known by the disputed domain name, enabling it to establish rights or legitimate interests therein.

Furthermore, there is no evidence in the file to prove any of the circumstances mentioned in paragraph 4(c) of the Policy, nor any other circumstances to suggest that the Respondent has rights or legitimate interests in the disputed domain name.

Likewise, and as further discussed under Section 6.C of this Decision, it does not seem that the Respondent is making any legitimate noncommercial or fair use of the disputed domain name, but rather that it intends to use the disputed domain name for the purpose of deriving unfair monetary advantage by confusing Internet users and leading them to believe that the site to which the disputed domain name relates is an official site of the Complainant.

As established in section 2.5 of [WIPO Overview 3.0](#): “Fundamentally, a respondent’s use of a domain name will not be considered ‘fair’ if it falsely suggests affiliation with the trademark owner; the correlation between a domain name and the complainant’s mark is often central to this inquiry.” Here, the nature of the disputed domain name carries a risk of implied affiliation.

The Panel finds that the Complainant has made out a *prima facie* case, a case calling for an answer from the Respondent. The Respondent has not responded and the Panel is unable to conceive of any basis upon which the Respondent could sensibly be said to have any rights or legitimate interests in respect of the disputed domain name.

The Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name and that the requirements of paragraph 4(a)(ii) of the Policy have been fulfilled.

C. Registered and Used in Bad Faith

The Panel is satisfied that the Respondent must have been aware of the Complainant’s trademark ANNA QUAN mentioned in Section 4 above (Factual Background) when it registered the disputed domain name on May 12, 2022.

In accordance with section 3.1.4 of [WIPO Overview 3.0](#), the Panel considers that the inclusion of the Complainant’s ANNA QUAN trademark in the disputed domain name creates a presumption of bad faith. The Respondent when registering the disputed domain name has targeted the Complainant’s trademark ANNA QUAN with the intention to confuse Internet users and capitalize on the fame of the Complainant’s trademark for its own monetary benefit.

The fact that there is a clear absence of rights or legitimate interests coupled with no credible explanation for the Respondent’s choice of the disputed domain name is also a significant factor to consider that the disputed domain name was registered in bad faith (as stated in section 3.2.1 of [WIPO Overview 3.0](#)).

Moreover, the inherently misleading nature of the disputed domain name and the fact that the website to which the disputed domain name resolves includes images that are identical to images authored by or on behalf of the Complainant constitute evidence of bad faith.

The Panel finds that the Respondent has registered and is using the disputed domain name intentionally to attempt to attract for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant’s ANNA QUAN trademark as to the source, sponsorship, affiliation, or endorsement for services similar to those offered by the Complainant. This amounts to bad faith under paragraph 4(b)(iv) 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, <annaquanshop.com> be transferred to the Complainant.

/Miguel B. O'Farrell/

Miguel B. O'Farrell

Sole Panelist

Date: November 4, 2022