

ADMINISTRATIVE PANEL DECISION

A&S Holdings (AUS) Pty Ltd v. Nadine Wannemaker
Case No. D2025-0717

1. The Parties

The Complainant is A&S Holdings (AUS) Pty Ltd, Australia, represented by Corrs Chambers Westgarth, Australia.

The Respondent is Nadine Wannemaker, Germany.

2. The Domain Name and Registrar

The disputed domain name <iamgiausa.com> (the “Disputed Domain Name”) is registered with Hongkong Kouming International Limited (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on February 21, 2025. On February 21, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On February 24, 2025, 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 sent an email communication to the Complainant on February 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 in English on February 28, 2025.

On February 24, 2025, the Center informed the Parties in Chinese and English, that the language of the Registration Agreement for the Disputed Domain Name is Chinese. The Complainant requested that English be the language of the proceeding in the Complaint and did not submit any further comment. The Respondent did not submit any comment on the Complainant’s submission.

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 in English and Chinese of the Complaint, and the proceedings commenced on February 28, 2025. In accordance with the Rules, paragraph 5, the due date for Response was March 20, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on March 21, 2025.

The Center appointed Andrew Sim as the sole panelist in this matter on March 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.

4. Factual Background

The Complainant is a women's fashion clothing company established in Australia in 2017, and, together with its related entities, trades in the name of "I Am Gia".

The Complainant is the owner of the following trademarks consisting the wording "I Am Gia" (the "Mark"), with registrations in various jurisdictions:

Jurisdiction	Mark	Trademark Number	Registration Date	Class(es) Covered
Australia	I AM GIA	1876551	September 28, 2017	9, 14, 18, 25, 35, and 42
Australia	I.AM.GIA	1829873	March 8, 2017	25, 35, and 42
United Kingdom	I.AM.GIA	UK00801364010	July 10, 2020	35
International trademark (designating inter alia China, European Union, Israel, Japan, Singapore, Republic of Korea, and United States of America)	I.AM.GIA	1364010	June 27, 2017	25, 35, and 42

Based on the evidence submitted by the Complainant, the Mark is used on the Complainant's website located at "www.iamgia.com" ("the Complainant's Website") and the following social media pages of the Complainant:

- (a) Facebook page at "www.facebook.com/i.am.gia.thelabel";
- (b) Instagram page at "www.instagram.com/iamgia"; and
- (c) TikTok page at "www.tiktok.com/@iamgia".

According to the Complainant's evidence, upon visiting the Disputed Domain Name, it resolves to a website ("the Respondent's Website") in English on which the Mark is prominently featured at the top middle. Besides, the Respondent's Website:

- (a) adopts a similar format to that of the Complainant's Website;

- (b) displays images of apparel that are duplicated from the Complainant's Website;
- (c) includes the I AM GIA word mark in all of the names of the clothing apparel that it offered; and
- (d) does not contain a statement which indicates the owner of the Respondent's Website, nor any disclaimer that informs Internet visitors that it is not affiliated or connected with the Complainant

(collectively, the "Respondent's Acts").

The Disputed Domain Name is registered on December 19, 2024. Little information is known about the Respondent. Available information provided by the Registrar covers only the registrant's name, postal address, email address, telephone number and facsimile number.

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 Name.

First, the Complainant contends that the Disputed Domain Name is identical or confusingly similar to the Mark. The Disputed Domain Name wholly incorporates the Mark. Besides, the addition of the term "usa" in the Disputed Domain Name does not negate a finding of confusing similarity because (a) the term "usa" only indicates the geographical location where goods are sourced or sold, (b) previous cases have decided that that addition of geographical location does not obviate a finding of confusing similarity, and (c) the Mark is clearly recognizable in the Dispute Domain Name.

Secondly, the Complainant submits that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name for the reasons below:

- (a) the Complainant's use of the Mark precedes the Respondent's registration of the Disputed Domain Name by at least seven years;
- (b) the Respondent is an individual who is not affiliated or connected with the Complainant;
- (c) the Respondent's Acts show that the products offered by the Respondent on the Respondent's Website are not bona fide offerings;
- (d) the Respondent's use of the Disputed Domain Name is not a legitimate noncommercial or fair use of the disputed domain name without intent for commercial gain, but intends to misleadingly divert customers and create a risk of tarnishing the Complainant's goodwill and reputation; and
- (e) the Respondent's Acts amount to "impersonation/passing off" and "the sale of counterfeit goods".

Third, the Complainant contends that the Disputed Domain Name was registered and is being used in bad faith by reiterating the Respondent's Acts. The Complainant further submits that the Respondent's Acts, particularly the incorporation of the Mark on the Respondent's Website and in the names of products on the Respondent's Website, show that the Respondent is aware of the Mark and has deliberately registered the Disputed Domain Name, despite such awareness. The Complainant also submits that the Respondent has put substantial effort in replicating the Complainant's Website with an intention of passing off and has used the Disputed Domain Name to confuse customers as to the operator of the Respondent's Website, with a view to unfairly leveraging off the Complainant's brand.

B. Respondent

The Respondent did not reply to the Complainant's contentions.

6. Discussion and Findings

6.1. Preliminary Issue: Language of the Proceeding

The language of the registration agreement for the Disputed Domain Name is Chinese. Pursuant to the Rules, paragraph 11(a), in the absence of an agreement between the parties, or unless specified otherwise in the registration agreement, the language of the administrative proceeding shall be the language of the registration agreement.

The Complaint was filed in English. The Complainant requested that the language of the proceeding be English as the Respondent's Website shows that the Respondent understands and operates its business in English.

The Respondent did not make any submissions with respect to the language of the proceeding. This is despite the fact that the Center has sent the notification of the Complaint which includes instructions on the language of the proceeding to the Respondent in both Chinese and English.

In exercising its discretion to use a language other than that of the registration agreement, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both parties, taking into account all relevant circumstances of the case, including matters such as the parties' ability to understand and use the proposed language, time and costs (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)), section 4.5.1).

Having considered all the matters above, the Panel determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English.

6.2. Substantive Issues

Paragraph 4(a) of the Policy states that, in an administrative proceeding, the Complainant must prove each of the following three elements:

- (a) the Disputed Domain Name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (b) the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name; and
- (c) the Disputed Domain Name has been registered and is being used in bad faith.

For the below reasons, support for the Complaint can be found due to the satisfaction of the three conditions for the Disputed Domain Name.

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 Mark and the Disputed Domain Name. [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 is reproduced within the Disputed Domain Name, with an addition of the term “usa” after the Mark. The Panel agrees with the Complainant’s submission that the addition of such term, which is only a geographical location, does not prevent a finding of confusing similarity between the Disputed Domain Name and the Mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Accordingly, the Disputed Domain Name is confusingly similar to the Mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7. 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.

From the overall appearance of the Respondent’s Website as described in section 4 above, the Panel finds that the Respondent’s Website is used for illegitimate activities through attempted impersonation for the following reasons:

- (a) the Mark is reproduced on the Respondent’s Website in a prominent manner to give an impression of affiliation, but the Respondent has never been licensed or otherwise permitted to do so;
- (b) the Respondent infringes the Complainant’s copyright in reproducing the product photos from the Complainant’s Website to the Respondent’s Website; and
- (c) by naming the various apparel products on the Respondent’s Website with the same or similar names as those listed on the Complainant’s Website, together with the Respondent’s acts described in (a) and (b) above, the Respondent intends to create confusion to customers.

Particularly in regards to the three illustrative examples of legitimate interests in paragraph 4(c) of the Policy, the Panel finds that:

- (a) the Respondent has not used the Disputed Domain Name in connection with a bona fide offering of goods or services, as the Panel has ruled that the Respondent’s Website is being used for illegitimate activities through attempted impersonation;

(b) the Disputed Domain Name does not correspond with the Respondent's name (i.e., "Nadine Wannemaker"), and there is no evidence of the Respondent operating any business or organization with similar name as the Disputed Domain Name; and

(c) the Respondent's use of the Disputed Domain Name does not fall within the scope of legitimate noncommercial or fair use, as the Respondent's Website is being used for illegitimate activities.

Furthermore, the composition of the Disputed Domain Name, comprising the entire Mark and the geographical term "USA", together with the content of the Respondent's Website at the Disputed Domain Name, carries a risk of confusion among Internet users.

Based on the available record, 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.

The Panel finds that the circumstances of registering and using the Disputed Domain Name clearly demonstrate the Respondent's bad faith and have constituted the situation as specified in paragraph 4(b)(iv) of the Policy:

(a) the Mark has been registered since 2017, more than seven years before the Respondent's registration of the Disputed Domain Name which is confusingly similar to the Mark;

(b) taking into account the Respondent's Acts, particularly the Respondent's reproduction of product photos from the Complainant's Website to the Respondent's Website, the Respondent is likely to have actual knowledge of the Mark at the time of the registration of the Disputed Domain Name;

(c) the Respondent's Website targets the Complainant, with the Mark being included in the names of the apparel offered on the Respondent's Website;

(d) as found in section 6.2B above, the Respondent's Website is being used for illegitimate activities through attempted impersonation and thus the Respondent's bad faith is manifestly apparent. [WIPO Overview 3.0](#), section 3.4;

(e) a presumption of bad faith is created from the fact that the Respondent, being an unaffiliated individual with the Complainant, registers the Disputed Domain Name which is almost identical with the Mark, without any possible justification, particularly noting the discussion in section 6.2B above. [WIPO Overview 3.0](#), section 3.1.4;

(f) there is no reasonable connection or association between the Respondent and the Disputed Domain Name; and

(g) as found in section 6.2B above, the risk of confusion arises from the composition of the Disputed Domain Name and the Respondent's Website.

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 <iamgiausa.com> be transferred to the Complainant.

/Andrew Sim/

Andrew Sim

Sole Panelist

Date: April 11, 2025