

ADMINISTRATIVE PANEL DECISION

Fashion Nova, LLC v. Zhou Siyu
Case No. D2022-2029

1. The Parties

The Complainant is Fashion Nova, LLC, United States of America (“United States”), represented by Ferdinand IP Law Group, United States.

The Respondent is Zhou Siyu, China.

2. The Domain Name and Registrar

The disputed domain name <chicfashionnova.com> is registered with 123-Reg Limited (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 4, 2022. On June 7, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 13, 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 the Complainant on June 14, 2022, 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 amended Complaint on June 18, 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 the Respondent of the Complaint, and the proceedings commenced on June 21, 2022. In accordance with the Rules, paragraph 5, the due date for Response was July 11, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 13, 2022.

The Center appointed Charles Gielen as the sole panelist in this matter on July 25, 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 one of the leading fashion companies in the United States and worldwide. The Complainant is the owner of the trade mark FASHION NOVA, registered in various countries in the world, such as in the United States Registration under No. 4785854 as of August 4, 2015. The Complainant was established in 2006 and is now one of the most well-known apparel and e-commerce companies in the United States. The Complainant's apparel lines include clothing, accessories and other merchandise, such as beauty products. The Complainant displays its trade mark FASHION NOVA extensively on social media sites, including Instagram and Facebook as well as on promotional and point of sale materials, billboards, magazines and industrial publications, at trade shows and live events and on the "www.fashionnova.com" website. In 2018 and 2019, the Complainant was the most searched fashion label on Google.

The disputed domain name was registered on February 14, 2022 and directs to a website "www.chicfashionnova.com" offering for sale different kinds of women's apparel.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name is confusingly similar to the Complainant's trade mark. It incorporates the trade mark FASHION NOVA in full, and then merely includes the suggestive and laudatory term "chic", which is a non-material difference that does not lessen the confusion because that term has a well-known connotation in the fashion industry for stylish clothing.

Furthermore, the Complainant contends that the Respondent does not have any rights or legitimate interests in the disputed domain name. First, there is no indication that the Respondent is commonly known by the disputed domain name. Second, the Complainant has not granted any authorization to anyone, which includes the Respondent, to register domain names containing the Complainant's trade mark or otherwise make use of its mark. Third, there is a clear intent by the Respondent to lure customers to its website mistakenly believing that the site is the same as, or affiliated with, the trade mark of the Complainant.

Finally, the Complainant argues that the Respondent registered and is using the disputed domain name in bad faith. The Complainant contends that the Respondent aims at passing themselves off as the Complainant or a partner or affiliated entity thereof, and thus to free-ride and profit off of the market reputation and goodwill of the trade mark FASHION NOVA. Also, the website of the Respondent shows the same type of fashion items as the website of the Complainant and because a confusingly similar domain name is being used, it is clear that the Respondent is using the disputed domain name in an intentional attempt to attract Internet users to its website for commercial gain, by creating a likelihood of confusion with the trade mark FASHION NOVA Mark.

B. Respondent

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

6. Discussion and Findings

The Panel is of the opinion that the Complainant's contentions are reasoned and that the disputed domain name should be transferred to the Complainant pursuant to the Policy.

A. Identical or Confusingly Similar

The Complainant proves that it has rights in the trade mark FASHION NOVA. The term "fashionnova" in the disputed domain name is identical to this trade mark. The fact that the disputed domain name contains the

term “chic” does not alter the conclusion that the disputed domain name is confusingly similar to the trade mark FASHION NOVA. The term “fashionnova” is the dominant element in the disputed domain name. According to section 1.8 of the [WIPO Overview 3.0](#): “where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element”. According to section 1.11 of the [WIPO Overview 3.0](#), “[t]he applicable Top Level Domain (‘TLD’) in a domain name (e.g., ‘.com’, ‘.club’, ‘.nyc’) is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test”. Therefore, the Panel is of the opinion that applying these principles to this case, the disputed domain name is confusingly similar to the Complainant’s trade mark.

Therefore, the requirement under paragraph 4(a)(i) of the Policy is met.

B. Rights or Legitimate Interests

The Panel is of the opinion that the Complainant made out a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. First, the Respondent did not show that it owns any rights to the name “fashionnova” nor that it has any license from the Complainant to use its trade mark. Second, the Respondent did not argue that it is known, or that it has ever been known under the name “fashionnova”. Moreover, the Panel finds that the nature of the disputed domain name and its use carries a risk of implied affiliation with the Complainant’s trade mark because the disputed domain name directs to a website, showing the disputed domain name as well as products that are quite similar to the products offered for sale by the Complainant (see section 2.5.1 of the [WIPO Overview 3.0](#)). Finally, the Respondent has not come forward with evidence of any rights or legitimate interests and the Panel does not find any in the present record.

In view of the aforementioned, the Panel is of the opinion that the requirement of paragraph 4(a)(ii) of the Policy is met.

C. Registered and Used in Bad Faith

The Panel is of the opinion that the disputed domain name was registered and is being used in bad faith. With respect to the registration, the Panel finds that it is plausible that the Respondent must have been aware of the Complainant’s earlier trade mark when he registered the disputed domain name. As the Complainant convincingly argues, the trade mark FASHION NOVA is a well-known trade mark and it has been in use for a long time. Furthermore, the Panel is of the opinion that the Respondent, by using the disputed domain name that is confusingly similar to the Complainant’s trade mark FASHION NOVA, will attract Internet users to the Respondent’s website by creating a likelihood of confusion with the Complainant’s trade mark and its business. This is caused by the fact that on its website, showing the disputed domain name, the Respondent is offering for sale similar apparel products as the ones offered for sale by the Complainant. The conclusion therefore is that the disputed domain name has been registered and is being used in bad faith.

The Panel therefore considers the requirement of paragraph 4(a)(iii) of the Policy to be met.

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 <chicfashionnova.com> be transferred to the Complainant.

/Charles Gielen/

Charles Gielen

Sole Panelist

Date: August 3, 2022