

## **ADMINISTRATIVE PANEL DECISION**

Gina Tricot AB v. Zhang Fang  
Case No. D2022-2234

### **1. The Parties**

The Complainant is Gina Tricot AB, Sweden, represented by Ports Group AB, Sweden.

The Respondent is Zhang Fang, China.

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

The disputed domain name <gina-tricot.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 June 20, 2022. On June 20, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 27, 2022, 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 June 28, 2022. In accordance with the Rules, paragraph 5, the due date for Response was July 18, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 19, 2022.

The Center appointed Richard C.K. van Oerle as the sole panelist in this matter on July 22, 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 a Swedish fashion chain offering feminine fashion to women in over 30 countries. The Complainant has more than 160 stores located throughout Sweden, Norway, Denmark, Finland, and Germany. It also offers online shopping throughout Europe. The Complainant has approximately 1,900 employees and around 98% are women.

The Complainant holds trademark registrations for the mark GINATRICOT (the “Trademark”) in various jurisdictions. The Trademark has been registered in the European Union, where the Complainant holds registrations for device and word marks containing GINATRICOT, for instance registration numbers 001861079 (registered March 20, 2002), 004820891 (registered January 24, 2007) and 004769329 (registered March 19, 2018). It has also been registered in China, where the Respondent appears to be located, for instance registration numbers 7941423, (registered September 7, 2015) and 7941425 (registered February 7, 2011).

The Complainant owns the domain name <ginatricot.com>.

The disputed domain name was registered on May 7, 2022.

The disputed domain name resolves to a commercial website, where fashion goods are offered for sale and that shows the Complainant’s Trademark, as well as images and photographs of the Complainant.

#### 5. Parties’ Contentions

##### A. Complainant

The Complainant states, in summary and in so far as relevant, the following.

The disputed domain name is confusingly similar to the Complainant’s registered Trademark. The disputed domain name incorporates the Complainant’s Trademark in its entirety with the addition of a hyphen between the words “gina” and “tricot”. The hyphen does not prevent a finding of confusing similarity between the disputed domain name and the Trademark.

The Respondent has no rights or legitimate interests in the disputed domain name. The Trademark registrations predate the Respondent’s registration of the disputed domain name. The Complainant has not licensed, approved, or in any way consented to the Respondent’s registration and use of the Trademark in the disputed domain name. To the best of the Complainant’s knowledge, the Respondent has not used or made any preparations to use the disputed domain name in connection with a *bona fide* offering of goods or services prior to the dispute.

The disputed domain name resolves to a commercial website where goods are offered for sale at discounted prices. The Respondent’s website contains copyrighted images and photographs from the Complainant’s website and also the Trademark.

The Respondent is using the disputed domain name to impersonate the Complainant with the intent to lure consumers. It is unclear whether the Respondent is offering counterfeit goods for sale or if the website, to which the disputed domain name resolves, is used by the Respondent for phishing purposes or to harvest personal data. Given that the “look and feel” of the Respondent’s website closely resembles the Complainant’s official website, consumers are likely to be misled into believing that the website belongs to the Complainant. Thus, the Respondent is not making a legitimate noncommercial or fair use of the disputed domain name without intent for commercial gain misleadingly to divert consumers.

Furthermore, to the best of the Complainant's knowledge, the Respondent is not commonly known by the disputed domain name.

The Complainant's Trademark registrations predate the registration of the disputed domain name about 25 years. The Complainant contends that the Respondent must have been aware of the Trademark at the time of the registration of the disputed domain name, given the fame of the Trademark in combination with the way the disputed domain name is being used by the Respondent immediately after being registered.

The fact that the Respondent is using the disputed domain name in order to impersonate the Complainant demonstrates that the Respondent had the Trademark and business in mind when registering and using the disputed domain name. The fact that the Respondent's website has a similar "look and feel" as the Complainant's official website falsely suggests affiliation with the Complainant. The Respondent is not only using the Complainant's photographs and marketing material without permission, but the Respondent is also offering goods for sale under the Trademark. This demonstrates that the disputed domain name has intentionally been used by the Respondent in an attempted to attract, for commercial gain, Internet users to the Respondent's website by creating a likelihood of confusion with the Trademark as to the source, sponsorship, affiliation, or endorsement of the website or location or of a product or service on that website.

Internet users and consumers may be misled into believing that the disputed domain name belongs to or is in some way associated with or provided by the Complainant. Consequently, the Complainant maintains that the Respondent registered and is using the disputed domain name in bad faith.

## **B. Respondent**

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

## **6. Discussion and Findings**

Dealing, first, with the Respondent's failure to file a response to the Complaint, paragraph 14(b) of the Rules provides that if a party, in the absence of exceptional circumstances, does not comply with a provision of, or requirement under these Rules, the Panel shall be entitled to draw such inferences from this omission, as it considers appropriate.

Paragraph 4(a) of the Policy provides that the Complainant prove each of the following three elements in order to succeed in its Complaint:

- (i) the disputed domain name is identical or confusingly similar to 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 has been registered and is being used in bad faith.

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

The Complainant has provided details of its trademark registrations for GINATRICOT, including the registrations in respect of which full details are set out above, and has thereby established its rights in the Trademark.

The disputed domain name incorporates the Trademark in its entirety, the only difference being the addition of a hyphen between "gina" and "tricot", but that, however, does not prevent the disputed domain name from being confusingly similar.

Accordingly, this Panel finds that the disputed domain name is confusingly similar to the Trademark, and the first element of the Policy under paragraph 4(a) has been satisfied.

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

Paragraph 4(a)(ii) of the Policy requires the complainant to show that the respondent has no rights or legitimate interests in respect of the disputed domain name. Once the complainant establishes a *prima facie* case that the respondent lacks rights or legitimate interests in the disputed domain name, the burden of production shifts to the respondent to show that it has rights or legitimate interests in respect to the disputed domain name (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)), section 2.1).

The Complainant alleges that the Respondent lacks rights to or legitimate interests in the disputed domain name for the reasons set out in section 5.A above. The Panel finds that the Complainant has fulfilled the obligation to establish *prima facie* that the Respondent has no rights to or legitimate interests in the disputed domain name. Because of its failure to submit a response, the Respondent has not rebutted the arguments of the Complainant and/or shown rights to or legitimate interests in the disputed domain name.

The Complainant has satisfied the second requirement that the Respondent has no rights or legitimate interests in the disputed domain name, under paragraph 4(a)(ii) of the Policy.

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

The Panel finds that at the time of registration of the disputed domain name, the Respondent was or should have been aware of the Trademark. The Complainant is well known, and in any event, a trademark register search, or even a simple online search prior to the registration of the disputed domain name would have informed the Respondent of the existence of the Complainant’s trademark rights and its extensive use of the Trademark as a source identifier. Moreover, the composition of the disputed domain name itself strongly suggests that the Respondent targeted the Trademark.

The fact that the Respondent’s website has a similar “look and feel” as the Complainant’s official website, shows the Trademark, as well as images and photographs of the Complainant falsely suggests affiliation with the Complainant and demonstrates that the disputed domain name has intentionally been used by the Respondent in an attempted to attract, for commercial gain, Internet users to the Respondent’s website by creating a likelihood of confusion with the Trademark as to the source, sponsorship, affiliation, or endorsement of the website or location or of a product or service on that website.

Furthermore, the failure of the Respondent to submit a response or to provide any evidence of actual or contemplated good faith use, is further evidence of bad faith, given the circumstances of the case (see, [WIPO Overview 3.0](#), section 3.2).

Therefore, the Panel finds that the disputed domain name has been registered and is being used in bad faith within the meaning 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 <gina-tricot.com> be transferred to the Complainant.

*/Richard C.K. van Oerle/*

**Richard C.K. van Oerle**

Sole Panelist

Date: July 27, 2022