

ADMINISTRATIVE PANEL DECISION

ONO International Limited and Annoushka Limited v. LeDan Li Case No. D2022-2880

1. The Parties

Complainants are ONO International Limited (“First Complainant”), British Virgin Islands, United Kingdom, and Annoushka Limited (“Second Complainant”), United Kingdom, represented by Lewis Silkin LLP, United Kingdom.

Respondent is LeDan Li, China.

2. The Domain Name and Registrar

The disputed domain name <annououtlet.com> (the “Domain Name”) 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 August 4, 2022. On August 5, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On August 8, 2022, the Registrar transmitted by email to the Center its verification response confirming that 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 Respondent of the Complaint, and the proceedings commenced on August 10, 2022. In accordance with the Rules, paragraph 5, the due date for Response was August 30, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on August 31, 2022.

The Center appointed Marina Perraki as the sole panelist in this matter on September 6, 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

First Complainant is the IP holding company for Second Complainant and is the proprietor of *inter alia*, the following trade marks:

- United Kingdom Trade Mark Registration No. UK00904215596 for ANNOUSHKA, filed on December 23, 2004 and registered on November 26, 2008, for goods in international classes 14 and 18; and
- European Union Trade Mark Registration No. 004215596 for ANNOUSHKA, filed on December 23, 2004 and registered on November 26, 2008, for goods in international classes 14 and 18.

Per the Complaint, Second Complainant's business was incorporated in September 2007 by the jewellery designer, Annoushka Ducas MBE, who has become renowned and has been rewarded with various awards and accolades, for example the Runner Up awarded by Veuve Clicquot Business Woman of the Year 1996; the Silver Designer of the Year awarded by UK Jewellery Awards; the Accessories Award awarded by British Apparel Export Awards; and MBE in the Queen's New Year's Honours list in 2012. Annoushka branded goods have been used by celebrities such as J K Rowling, Adele, Gigi Hadid, Queen Rania of Jordan, Lady Amelia Windsor, and The Duchess of Cambridge.

The Domain Name was registered on January 18, 2022 and leads to a jewellery retail website mimicking that of Complainants and offering identical counterfeit products at a significantly discounted price (the Website).

5. Parties' Contentions

A. Complainants

Complainants assert that they have established all three elements required under paragraph 4(a) of the Policy for the transfer of the Domain Name.

B. Respondent

Respondent did not reply to Complainants' contentions.

6. Discussion and Findings

Paragraph 4(a) of the Policy lists the three elements, which Complainants must satisfy with respect to the Domain Name:

- (i) the Domain Name is identical or confusingly similar to a trade mark or service mark in which Complainants have rights; and
- (ii) Respondent has no rights or legitimate interests in respect of the Domain Name; and
- (iii) the Domain Name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

Complainants have demonstrated rights through registration and use in the ANNOUSHKA trade mark.

The Panel finds that the Domain Name is confusingly similar to the ANNOUSHKA trade mark.

The Domain Name incorporates Complainants' ANNOUSHKA mark in its first and most characteristic part "annou". This is sufficient to establish confusing similarity.

The omission of the second part of the trade mark namely the diminutive "shka" in the Domain Name does not prevent a finding of confusing similarity, as the ANNOUSHKA trade mark remains clearly recognizable (WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.8). Furthermore, the content of the Website shows that Respondent targets Complainants' ANNOUSHKA mark, and affirms a finding of confusing similarity with Complainants' mark ([WIPO Overview 3.0](#), section 1.15).

The generic Top-Level Domain ("gTLD") ".com" is disregarded, as gTLDs typically do not form part of the comparison on the grounds that they are required for technical reasons (*Rexel Developpements SAS v. Zhan Yequn*, WIPO Case No. [D2017-0275](#); *Hay & Robertson International Licensing AG v. C. J. Lovik*, WIPO Case No. [D2002-0122](#)).

The Panel finds that the Domain Name is confusingly similar to the ANNOUSHKA mark.

Complainants have established Policy, paragraph 4(a)(i).

B. Rights or Legitimate Interests

Pursuant to paragraph 4(c) of the Policy, Respondent may establish its rights or legitimate interests in the Domain Name, among other circumstances, by showing any of the following elements:

- (i) before any notice to Respondent of the dispute, 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) Respondent (as an individual, business, or other organization) has been commonly known by the Domain Name, even if it has acquired no trade mark or service mark rights; or
- (iii) Respondent is making a legitimate noncommercial or fair use of the Domain Name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trade mark or service mark at issue.

The Panel concludes that Respondent lacks rights or legitimate interests in respect of the Domain Name.

Respondent has not replied to Complainants' contentions and has not claimed any such rights or legitimate interests with respect to the Domain Name. As per the Complaint, Respondent was not authorized to register the Domain Name.

There is no evidence that Respondent has been commonly known by the Domain Name.

Prior to the notice of the dispute, Respondent did not demonstrate any use of the Domain Name or a name corresponding to the Domain Name in connection with a *bona fide* offering of goods or services.

On the contrary, as Complainants demonstrated, the Domain Name is used to host the Website to impersonate Complainants and attempt to mislead consumers into thinking that the goods purportedly offered for sale on the Website originate from Complainants. Such use demonstrates neither a *bona fide* offering of goods or services nor a legitimate noncommercial interest of Respondent (*Arkema France v. Aaron Blaine*, WIPO Case No. [D2015-0502](#)).

Furthermore, according to the evidence submitted with the Complaint, the Website was used for the offering of products purporting to be Complainants' products, but at a significantly discounted price, which Complainants' identify as counterfeit products.

The Panel finds that these circumstances do not confer upon Respondent any rights or legitimate interests in respect of the Domain Name.

Complainants have established Policy, paragraph 4(a)(ii).

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy provides that the following circumstances, “in particular but without limitation,” are evidence of the registration and use of the Domain Name in “bad faith”:

(i) circumstances indicating that Respondent has registered or has acquired the Domain Name primarily for the purpose of selling, renting, or otherwise transferring the Domain Name registration to Complainants who are the owner of the trade mark or service mark or to a competitor of that Complainants, for valuable consideration in excess of its documented out of pocket costs directly related to the Domain Name; or

(ii) that Respondent has registered the Domain Name in order to prevent the owner of the trade mark or service mark from reflecting the mark in a corresponding domain name, provided that Respondent has engaged in a pattern of such conduct; or

(iii) that Respondent has registered the Domain Name primarily for the purpose of disrupting the business of a competitor; or

(iv) that 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 Complainants’ mark as to the source, sponsorship, affiliation, or endorsement of Respondent’s website or location or of a product or service on Respondent’s website or location.

The Panel concludes that Respondent has registered and used the Domain Name in bad faith.

Because the ANNOUSHKA mark had been used and registered by Complainants before the Domain Name registration, the Panel finds it more likely than not that Respondent had Complainants’ mark in mind when registering the Domain Name (*Tudor Games, Inc. v. Domain Hostmaster, Customer ID No. 09382953107339 dba Whois Privacy Services Pty Ltd / Domain Administrator, Vertical Axis Inc.*, WIPO Case No. [D2014-1754](#); *Parfums Christian Dior v. Javier Garcia Quintas and Christiandior.net*, WIPO Case No. [D2000-0226](#)).

Respondent should have known about Complainants’ rights, as such knowledge is readily obtainable through a simple browser search and also due to Complainants’ nature of business, provided also online, namely online sales (see *Caesars World, Inc. v. Forum LLC*, WIPO Case No. [D2005-0517](#); *Compart AG v. Compart.com / Vertical Axis, Inc.*, WIPO Case No. [D2009-0462](#)).

Furthermore, the content of the Website gives the impression that it originates from Complainants, prominently displaying ANNOUSHKA signs on the Website, thereby giving the false impression that the Website emanates from Complainants. This further supports registration in bad faith reinforcing the likelihood of confusion, as Internet users are likely to consider the Domain Name as in some way endorsed by or connected with Complainants ([WIPO Overview 3.0](#), section 3.1.4).

The above further affirms that Respondent knew of Complainants and chose the Domain Name with knowledge of Complainants and their industry (*Safepay Malta Limited v. ICS Inc*, WIPO Case No. [D2015-0403](#)).

As regards bad faith use, the Domain Name was employed to host the Website which appeared falsely to be that of Complainants. The Domain Name operates by intentionally creating a likelihood of confusion with Complainants’ trade mark and business as to the source, sponsorship, affiliation, or endorsement of the Website to which it leads. This is indicative of bad faith registration and use (*Oculus VR, LLC v. Sean Lin*, WIPO Case No. [DCO2016-0034](#); [WIPO Overview 3.0](#), section 3.1.4).

Furthermore, per the Complaint, counterfeit versions of Complainants' goods are offered for sale on the Website (*Bayerische Motoren Werke AG v. Domains by Proxy, LLC / Alfred Kolinz, bmwupdate*, WIPO Case No. [D2017-2450](#), *Bayerische Motoren Werke AG (BMW) v. Balog Sebastian*, WIPO Case No. [D2017-1407](#)).

Under these circumstances and on this record, the Panel finds that Respondent registered and is using the Domain Name in bad faith.

Complainants have established Policy, paragraph 4(a)(iii).

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 Domain Name, <annououtlet.com>, be transferred to First Complainant, ONO International Limited.

/Marina Perraki/

Marina Perraki

Sole Panelist

Date: September 20, 2022