



CANADIAN INTERNATIONAL INTERNET DISPUTE RESOLUTION CENTRE

DOMAIN NAME DISPUTE

ADMINISTRATIVE PANEL

DECISION

CIIDRC case number:	24780-CDRP	Decision date: April 10, 2025
Domain Name:	commedesgarconscanada.ca	
Panel:	Michael Erdle	
Complainant:	Comme des Garçons International SAS	
Registrant:	August Elzbieta	

1. OVERVIEW

This matter concerns a registered domain, <**commedesgarconscanada.ca**> (the “Domain Name”).

This matter is a proceeding under the Canadian Dispute Resolution Policy (“CDRP”) and the Canadian Dispute Resolution Rules (“Rules”) of the Canadian Internet Registry Authority (“CIRA”). The Canadian International Internet Dispute Resolution Centre (“CIIDRC”) is a recognized service provider to the CIRA Domain Name Dispute Resolution Policy (the “Policy”) of the Canadian Internet Registration Authority (“CIRA”).

2. PROCEDURAL HISTORY

The Domain Name was registered on 2024-06-13.

The procedural history of this case was set out in a letter from CIIDRC to the Panel:

1. On February 21, 2024, Alexa Sussmane filed a Complaint on behalf of Comme des Garçons International SAS pursuant to the CDRP and the Resolution Rules. The complaint was in administrative compliance with CIRA’s requirements under Rule 3.2.

2. On February 21, 2025, CIRA was notified of this proceeding and on the same day, CIRA transmitted by email to CIIDRC its verification response informing that the Registrant of the disputed domain name is August Elzbieta. CIRA also confirmed that the disputed domain name was placed on a Registrar LOCK.
3. On February 24, 2025, CIIDRC, pursuant to Resolution Rule 4.4, notified the Registrant of this administrative proceeding and forwarded a Notice of Complaint along with the Complaint.
4. The Registrant failed to file response within the time specified in the Resolution Rules.
5. The Complainant in this administrative proceeding elected for a Panel consisting of a single-member.
6. On March 21, 2025, CIIDRC appointed me as a single-member Panel.
7. I accepted the appointment and confirmed my impartiality and independence in connection with this complaint, as required under Paragraph 7 of the Resolution Rules.

3. CONTENTIONS OF THE PARTIES

- **Complainant**

The Complainant, Comme des Garçons International SAS, states that it is a world-renowned fashion brand and has spent considerable sums developing, registering, and maintaining its intellectual property. Complainant owns a portfolio of trademarks consisting of dozens of international and Canadian registrations that cover clothing, shoes, cosmetics, fragrances and other products. A list of “Comme des Garçons” Canadian trademarks is attached to the Complaint as Annex 1. The official website for Complainant is comme-des-garcons.com and screenshots of this website are attached to the complaint as Annex 2.

The Complainant contends that the Registrant’s use of the domain use of the domain name is a direct infringement of the Complainant’s registered trademarks.

The Complainant contends that PublicDomainRegistry.com, the registrar for the Domain Name, explicitly incorporates ICANN’s Uniform Domain Name Dispute Resolution Policy (“UDRP”) into its Domain Registration Agreement. It attached a copy of the Domain Registration Agreement and a copy of the UDRP to the Complaint.

Complainant states that UDRP Article 4(a) requires parties to submit to mandatory arbitration if the following criteria are met:

- (i) [respondent’s] domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights; and

(ii) [Respondent has] no rights or legitimate interests in respect of the domain name; and

(iii) [Respondent's] domain name has been registered and is being used in bad faith.

The Complainant contends that the Registrant's domain is identical to trademarks registered by Complainant.

It contends that the Registrant has no legitimate interest in the domain name and that the Registrant registered the domain name in bad faith.

The Complainant contends that the Registrant is selling counterfeit Comme des Garçons products and engaging in a fraudulent scheme to deceive consumers into believing the website and products are affiliated with and/or sponsored by Complainant.

Domain Name is Confusingly Similar to Complainant's Mark

The entirety of the Complainant's submission with respect to Confusing Similarity is as follows:

Respondent's domain name 'Commedesgarconscanada.ca' is identical to a protected brand name and registered trademark "Comme des Garçons." See Annex 1. Respondent's domain intentionally attempts to confuse consumers into the fraudulent belief that the website and the products on the website are manufactured by or otherwise endorsed by Complainant.

Registrant has No Legitimate Interest

The entirety of the Complainant's submission with respect to Legitimate Interest is as follows:

Respondent has no legitimate claim to the mark "Comme des Garçons" or to any trademark represented in Annex 1. Commedesgarconscanada.ca is almost identical to Comme-des-Garçons.com, the official website of Complainant shown in Annex 2 which was registered by the Complainant in 1998. Respondent's site was registered in 2024 and was intended to intentionally deceiving consumers into believing the domain name and the webpage is associated with and/or otherwise endorsed by Comme des Garçons. The only purpose for Respondent's registration of the domain name is to deceive the public to sell counterfeit goods and fraudulently take orders away from Complainant. Such use constitutes willful infringement and fraud.

Registrant Registered the Domain Name in Bad Faith

The entirety of the Complainant's submission with respect to Bad Faith is as follows:

Respondent has registered the domain name in bad faith and does not have a registered or common law trademark for "Comme des Garçons". UDRP Article 4(b)(iv) specifies that there is evidence of registration in bad faith if:

[B]y using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your web site or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your web site or location or of a product or service on your web site or location.

See Annex 7.

Respondent registered the domain name to sell counterfeit goods bearing Complainant's trademarks, to impersonate Complainant and to defraud Complainant's customers. Respondent is taking orders from customers believing the domain is associated with Complaints. [sic] The website is clearly intended to mislead the public. The website does not provide a way for customers to contact the owners of the site, providing no contact information or physical address to which items may be returned.

- **Registrant**

The Registrant did not respond to the complaint.

- **Remedy Sought**

The Complainant requests the Domain Name be transferred to it.

4. DISCUSSION AND FINDINGS

4.1 Eligibility

Paragraph 1.4 of the CDRP provides that, in order to be eligible to file a complaint under the CRP a Complainant "must, at the time of submitting a complaint (the "Complaint"), satisfy the Canadian Presence Requirements for Registrants (the "CPR") in respect of the domain name that is the subject of the Proceeding

unless the Complaint relates to a trade-mark registered in the Canadian Intellectual Property Office (“CIPO”) and the Complainant is the owner of the trade-mark.” (emphasis added)

According to the trademark registration records provided by the Complainant in Annex 1, the Complainant, Comme des Garçons International SAS, filed an application to register the trademark COMME des GARCONS on November 18, 2022, but the mark was not registered as of the date of the Complaint.

The Complainant also submitted evidence of other trademark registrations for COMME des GARCONS, however the owners of those registrations are identified as Comme des Garçons Co., Ltd., with an address in Tokyo, Japan and Comme des Garçons Parfum S.A., in Paris, France.

The Complainant did not submit any evidence with regard to the connection between the Complainant and those entities, or that the Complainant itself has ownership rights in those registrations.

Nor did the Complainant submit any evidence that it otherwise meets the Canadian Presence Requirements for Registrants.

For these reasons, the Panel finds that the Complainant has not established that it meets the eligibility requirements to file this Complaint under the CDRP.

4.2 Other CDRP Requirements

With respect to the substance of the Complaint, the Panel notes that, under Paragraph 4.1 of the CDRP, the onus is on the Complainant to prove on a balance of probabilities that:

- (a) the Domain Name is Confusingly Similar to a trademark or service mark in which the Complainant had rights prior to the date of registration of the Domain Name and continues to have such Rights; and
- (b) the Registrant registered the Domain Name in bad faith.

and the Complainant must provide some evidence that:

- (c) the Registrant has no legitimate interest in the Domain Name.

In the Complaint, the Complainant makes reference to the ICANN UDRP. It does not make reference to, or submissions regarding, the criteria for finding confusing similarity, bad faith or legitimate interest under Paragraph 3 of CDRP.

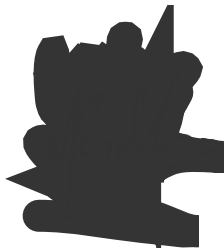
However, in light of the Panel's finding with respect to the eligibility of the Complainant to file this Complaint, it is not necessary to make any findings with respect to the merits of the Complaint.

5. DECISION and ORDER

For the above reasons, in accordance with Paragraph 4 of the CDRP, Paragraph 12 of the Resolution Rules, the Panel orders that the Complaint is dismissed.

Made at Victoria, British Columbia, as of this 10th day of April, 2025

SIGNATURE OF PANEL



Michael Erdle,
Arbitrator

