



URS | DETERMINATION
(URS Procedure 9, URS Rules 13)

URS DISPUTE NO. 040B2C1A

Determination DEFAULT

I. PARTIES

Complainant: EUROSPORT, FR

Complainant's authorized representative(s): INLEX IP EXPERTISE, Hermine Coudry, FR

Respondent: Protection of Private Person, Privacy Protection, RU

II. THE DOMAIN NAME(S), REGISTRY OPERATOR AND REGISTRAR

Domain Name(s): EUROSPORT.SITE

Registry Operator: DotSite, Inc.

Registrar: Registrar of Domain Names REG.RU LLC

III. PROCEDURAL HISTORY

Complaint submitted: 2020-06-12 16:23

Lock of the domain name(s): 2020-06-17 01:37

Notice of Complaint: 2020-06-17 13:48

Default Date: 2020-07-02 00:00

Notice of Default: 2020-07-02 10:43

Panel Appointed: 2020-07-02 10:46

Default Determination issued: 2020-07-03 07:16

IV. EXAMINER

Examiner's Name: Igor Motsnyi

The Examiner certifies that he has acted independently and impartially and to the best of his knowledge has no known conflict in serving as the Examiner in this administrative proceeding.

V. RELIEF SOUGHT

The Complainant requests that the domain name be suspended for the balance of the registration period.

The Respondent has not submitted a Response.

VI. STANDARD OF REVIEW

Clear and convincing evidence.

VII. DISCUSSIONS AND FINDINGS

A. Complainant:

The Complainant is a French company registered since 1992 under the name EUROSPORT. The Complainant owns several EUROSPORT trademarks, in particular:

- the French Trademark Registration "EUROSPORT" No. 99809801, filed on August 30th, 1999 and duly renewed in classes 9, 14, 16, 25, 28, 35, 38, 41 and 42;
- the International Trademark Registration "EUROSPORT" No. 732747, registered on February 24th, 2000 in classes 9, 14, 16, 25, 28, 35, 38, 41 and 42 in more than 30 countries;
- the European Union Trademark Registration "EUROSPORT" No. 014185599, filed on May 29th, 2015 and registered on October 2nd, 2015 in class 12.

The Complainant also owns a number of domain names including eurosport.com and eurosport.it, registered on March 11th, 1998 and eurosport.fr, registered on October 16th, 2006.

The Complainant states that it is widely known by the name EUROSPORT for its Pan-European television sports network channel and emphasizes that the denomination "EUROSPORT" is highly distinctive due the intensive use it has been put through.

All these trademarks and domain names had been registered before the registration of the disputed domain name.

1. The Complainant states that the disputed domain name fully reproduces the Complainant's trademark and the addition of gTLD .site is irrelevant.
2. The Complainant states that the disputed domain name was registered anonymously and the Respondent has not been authorized by the Complainant to use the EUROSPORT mark or to register the disputed domain name. There is no business relationship between the parties. The Respondent is not known under that name and the content of the web site under the disputed domain name does not indicate any legitimate rights or interests. The disputed domain name is offered for sale.
3. The Complainant claims that its Pan-European television sport network channel is very well-known. It was first launched in 1989. Today, the network and its channels are available all around the world and the Complainant highlights the following facts, in particular related to the "Eurosport" mark and its business:
 - Channel Eurosport 1: 71 countries in 21 languages (Europe and Asia-Pacific), broadcasted in 158 million homes; <http://corporate.eurosport.com/our-brands/eurosport/> ;
 - Channel Eurosport 2: 55 countries in 19 languages, broadcasted in 68 million homes; <http://corporate.eurosport.com/our-brands/eurosport-2/> ;
 - web site Eurosport.com: Europe's most visited online sports destination with 16 websites worldwide in 10 languages. Average of 14 million unique users per month in 2015 in Europe (up to 2.4m users per day for the mobile application - available in 10 languages and downloaded 16 million times) <http://corporate.eurosport.com/our-brands/eurosport-com/>.

The name EUROSPORT is immediately associated with the Complainant's brand. It is exceedingly unlikely that the Respondent was unaware of the existence of these prior rights at the time of registration of the disputed domain name. The web site under the disputed domain name is neither used in connection with a bona fide offering goods/services nor constitutes a legitimate non-commercial fair use. The Complainant states that it had contacted the Respondent to warn about the violation of Complainant's rights and



after that the website changed from an inactive parking page to a page bearing the message "This domain is for sale". The Complainant adds that the registration of the disputed domain name disturbs the Complainant's business.

The Internet users will be led to believe that the website under the disputed domain name is operated by the Complainant. The customers of the Complainant may thus incorrectly believe that the Complainant's website is not functioning. This perception will be harmful for the activities and for the image of the Complainant.

B. Respondent:

The Respondent did not submit a Response.

C. Procedural findings:

Having reviewed the communications records, the Examiner finds that MFSD has discharged its responsibility under the URS Procedure paragraphs 3 and 4 and URS Rules paragraph 4.

In accordance with URS Procedure Paragraph 9(d), in absence of a Response, the language of the Determination shall be English.

D. Findings of fact:

The disputed domain name was registered on January 24th, 2020.

The disputed domain name is not actively used.

The Complainant has demonstrated that it owns the following registered "EUROSPORT" word trademarks:

- French Trademark Registration "EUROSPORT" No. 99809801, filed on August 30, 1999 and duly renewed;
- International Trademark Registration "EUROSPORT" No. 732747, registered on February 24, 2000 and duly renewed;
- European Union Trademark Registration "EUROSPORT" No. 014185599, filed on May 29, 2015 and registered on October 2, 2015.

E. Reasoning:

According to Paragraph 13 of the URS Rules, the Examiner shall make a Determination of a Complaint in accordance with the URS Procedure, the URS Rules and any rules and principles of law that it deems applicable.

Even though the Respondent has defaulted, URS Procedure 1.2.6, requires Complainant to make a *prima facie* case, proven by clear and convincing evidence, for each of the following three elements to obtain an order that a domain name should be suspended.

For the Complainant to succeed, it must establish that each of the three following conditions under 1.2.6 URS Procedure are satisfied:

- That the disputed domain name is identical or confusingly similar to a word mark;

- That the Registrant has no legitimate right or interest to the disputed domain name;
- That the disputed domain name was registered and is being used in bad faith.

1. The domain name(s) is(are) identical or confusingly similar to a word mark

The disputed domain name fully incorporates Complainant's EUROSPORT word trademark without any additions or changes.

As stated in the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Overview 3.0") "*In cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark ...*" (see par. 1.7).

In the present case the disputed domain name is identical to the Complainant's EUROSPORT word trademark. The Complainant provided evidence that its word trademarks are in use.

The .site gTLD shall be disregarded under the identity or the confusing similarity test as it does not add anything to the distinctiveness of the disputed domain name.

Therefore, the Examiner finds that the requirements set forth under Paragraph 1.2.6.1. of the URS Procedure have been satisfied.

2. Respondent has no rights or legitimate interests to the domain name(s)

The Complainant is required to make out a prima facie case that the Respondent lacks rights or legitimate interests; and once such prima facie case is made, the burden shifts to the Respondent who has to demonstrate his rights or legitimate interests.

The Complainant made a prima facie case and the Respondent failed to respond and explain any rights or interests in respect of the disputed domain name. The web site under the disputed domain name is inactive.

No facts or evidence of this dispute indicate any legitimate rights or interests of the Respondent in respect of the disputed domain name.

Based on the above, the Examiner finds that the Respondent lacks any rights or legitimate interests with respect to the disputed domain name as per the requirements set forth under Paragraph 1.2.6.2. of the URS Procedure.

3. The domain name(s) was(were) registered and is(are) being used in bad faith

While the disputed domain name has not been put into the active use, previous panels have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding (see par. 3.3 of WIPO Overview 3.0, see also URS DISPUTE NO. 01D047A5).

The totality of the circumstances of a particular case has to be taken into account and the following facts of the present dispute demonstrate bad faith on the Respondent's side:

(i) The degree of distinctiveness or reputation of the Complainant's mark – the Complainant's EUROSPORT trademark is highly distinctive and well-known. The Complainant's EUROSPORT trademark has been a target of cybersquatters before and the well-known nature of its trademark is confirmed by previous panels (see e.g. URS DISPUTE NO. 5FA36F3F – "*the Complainant's trademarks EUROSPORT is distinctive and well known in most of the countries*"; Eurosport v. Bernd Bindreiter WIPO Case No.



D2018-2880 – “the Complainant has filed enough evidence to support its allegation that the trademark EUROSPORT is well-known as found by previous panels”; see also Eurosport v. Jakub Tomczyk, WIPO Case No. D2005-0496 and Eurosport v. Belize Domain WHOIS Service Lt, WIPO Case No. D2010-0077). See also URS Dispute No. EDCE19D5.

(ii) The failure of the Respondent to submit a response or to provide any evidence of actual or contemplated good-faith use of the disputed domain name.

(iii) The implausibility of any good faith use to which the disputed domain name may be put taking into account well-known character of the Complainant’s trademark and

(iv) The Respondent’s failure to respond to the Complainant’s cease and desist letter sent on April 14th, 2020. Moreover, it appears that soon after receipt of that letter the Respondent made some changes on the web site under the disputed domain name (now the web site links to a third party site).

The disputed domain name is identical to the Complainant’s trademark and as confirmed by WIPO Overview 3.0 the mere registration of a domain name that is identical or confusingly similar to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith (par. 3.1.4).

From the evidence available in the present dispute, it clearly appears that the Respondent has intentionally attempted to attract for commercial gain Internet users to its website by creating a likelihood of confusion with the Complainant’s mark by fully incorporating Complainant’s distinctive trademark into the disputed domain name.

This conduct is considered by the URS as a demonstration of bad faith registration and use, under Paragraph 1.2.6.3 (d) of the URS Procedure.

Therefore, the Examiner finds that the requirements set forth under Paragraph 1.2.6.3. of the URS Procedure have been satisfied by the Complainant.

4. Abusive Complaint

The Examiner finds that the Complaint was neither abusive nor contained material falsehoods

VIII. DETERMINATION

A. Demonstration of URS elements

Demonstrated

B. Complaint and remedy

Complaint: Accepts

Domain Name(s): EUROSPORT.SITE

Suspends for the balance of the registration period

C. Abuse of proceedings

Finding of abuse of proceedings: Not finds

D. Publication

Publication: Publish the Determination

SIGNATURE

Name: Igor

Surname: Motsnyi

Date: 03 July 2020