



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

**URS DISPUTE NO. 049DE4DD**

Determination DEFAULT

**I. PARTIES**

Complainant: POLA ORBIS HOLDINGS INC. (Japan)  
Complainant's authorized representative: IP Twins (FR)

Respondent: rjyukyi ghndygyuk (China)

**II. THE DOMAIN NAMES, REGISTRY OPERATORS AND REGISTRAR**

Domain Names: b-a-pola.store, b-a-pola.shop, b-a-pola.live (collectively "Domain Names")  
Registry Operators: Dog Beach, LLC, GMO Registry, Inc., Radix Technologies Inc.  
Registrar: GoDaddy.com, LLC

**III. PROCEDURAL HISTORY**

Complaint submitted: 14 October 2024  
Lock of the domain name(s): 17 October 2024  
Notice of Complaint: 18 October 2024  
Default Date: 2 November 2024  
Notice of Default: 4 November 2024  
Panel Appointed: 4 November 2024  
Default Determination issued: 5 November 2024

**IV. EXAMINER**

Examiner's Name: Nicholas Smith

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 Names 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 global cosmetics company, based in Tokyo Japan and founded in 1929. The Complainant offers a range of cosmetics under the trademark POLA, which it has registered in a number of jurisdictions, and through its official website [www.pola.com](http://www.pola.com).

The Complainant contends that:

- 1) Each of the Domain Names wholly reproduce the Complainant's distinctive and coined POLA mark, with the addition of the terms "b-a-". The addition of these terms does not diminish the likelihood of confusion as Complainant markets a line of cosmetic products under the brand B.A with annual sales of 40 billion yen.
- 2) The Respondent has no rights or legitimate interest in respect of the Domain Names. The Respondent has not been authorized by the Complainant to use the POLA mark or register any domain name incorporating the POLA mark or any similar mark. Each of the Domain Names resolve to inactive websites maintained by the Registrar.
- 3) The Domain Names were registered and used in bad faith. Respondent must have known of the Complainant at the registration date since it is implausible that an entity would register 3 domain names comprising the Complainant's coined POLA mark and its B.A brand absent knowledge of the Complaint. Respondent fails to use the Domain Names and the absence of active use of a domain name does not prevent a finding of bad faith.

### **B. Respondent:**

The Respondent did not file a Response within the required deadline.

### **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 Rules Paragraph 9(d), in absence of a Response, the language of the Determination shall be English.

### **D. Findings of fact:**

The facts asserted by the Complainant have been supported by clear and convincing evidence and have not been contested by the Respondent.

### **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.

The Respondent did not reply to the Complainant's contentions. However, a Respondent's default does not automatically result in a decision in favour of the Complainant. Indeed, in spite of Respondent's default, URS Procedure requires the Complainant to succeed to



establish that each of the three following conditions under Paragraph 1.2.6 of the URS Procedure are satisfied:

- That the Domain Names are identical or confusingly similar to a word mark;
- That the Respondent has no legitimate right or interest to the Domain Names;
- That the Domain Names were registered and are being used in bad faith.

### **1. The domain names are identical or confusingly similar to a word mark**

The Complainant is owner of registrations for the word mark POLA in Japan and Singapore (Singapore TM T9405973D registered on July 11, 1994 for certain goods in class 3).

The Domain Names entirely reproduce the POLA mark. The addition of the element “b-a”, does prevent a finding of confusing similarity. As the Complainant also uses the brand B.A for its products the additional element further reinforces the impression that the Domain Names are owned by or affiliated with the Complainant.

The Examiner finds that the Complaint meets the requirement of the URS 1.2.6 (i).

### **2. Respondent has no rights or legitimate interests to the domain names**

The Respondent, in not formally responding to the Complaint, has failed to invoke any of the circumstances which could demonstrate, pursuant to the URS, any rights or legitimate interests in the Domain Names. Nevertheless, the burden of proof is still on the Complainant to make a *prima facie* case against the Respondent.

The Complainant asserts that it has not authorized the Respondent nor granted the Respondent a license or permission to register the Domain Names or use its trademarks. In addition, there is no evidence that the Respondent is commonly known by the Domain Names or any evidence of trademarks or trade names registered by the Respondent corresponding to the Domain Names. Finally, the Domain Names resolve to inactive pages maintained by the Registrar which do not by themselves provide evidence of rights or legitimate interests in the Domain Names.

In these circumstances and absent evidence to the contrary, the Examiner finds that the Respondent does not have rights or legitimate interests with respect to the Domain Names and that the Complaint meets the requirement of the URS 1.2.6 (ii).

### **3. The domain names were registered and are being used in bad faith**

While the Domain Names are not presently in 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.

The totality of the circumstances of a particular case have to be taken into account and the Panel is satisfied that the Domain Names have been registered and are being used in bad faith on the basis of the following facts:

- The Complainant's POLA mark is a coined mark with no ordinary meaning. The Complainant has used the POLA mark for its cosmetics in numerous jurisdictions around the world, particularly in Asia, for over 20 years.
- The Domain Names consist of the POLA mark, combined with the "b-a-" element. B.A is a brand also used by the Complainant. It is implausible that the Complainant registered three separate domain names each referring to two brands used by the same significant cosmetic company absent awareness of that company and an intention to take advantage of any confusion between the Domain Names and that company.
- The failure of the Respondent to submit a response or to provide any evidence of actual or contemplated good faith use of the Domain Names; and
- The implausibility of any good faith use to which the disputed domain name may be put taking into account the distinctiveness and use of the Complainant's trademark.

The Examiner finds the Complaint meets the requirement of the URS Paragraph 1.2.6 (iii).

#### **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 Names: b-a-pola.store, b-a-pola.shop, b-a-pola.live  
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: Nicholas  
Surname: Smith  
Date: 2024-11-05