



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

**URS DISPUTE NO. 07B88919**

Determination DEFAULT

**I. PARTIES**

Complainant(s): RED BULL GMBH (AT)  
Complainant(s)'s authorized representative(s): TALIENS PARTNERSCHAFT VON  
RECHTSANWÄLTEN MBB (DE)

Respondent(s): NIKITA POPOV, POPOVAGENCY (RU)

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

Domain Name(s): REDBULL-CLUB.ONLINE  
Registry Operator: DotOnline Inc.  
Registrar: GoDaddy.com, LLC

**III. PROCEDURAL HISTORY**

Complaint submitted: 2021-07-12 17:15  
Lock of the domain name(s): 2021-07-14 00:28  
Notice of Complaint: 2021-07-14 12:53  
Default Date: 2021-07-29 00:00  
Notice of Default: 2021-07-29 09:42  
Panel Appointed: 2021-07-29 09:50  
Default Determination issued: 2021-07-30 12:01

**IV. EXAMINER**

Examiner's Name: Ganna Prokhorova

The Examiner certifies that she has acted independently and impartially and to the best of her 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 has run its business under the company name RED BULL GmbH in Austria since 1987 and internationally since 1992 and is the producer of the worldwide famous RED BULL Energy Drink.

The Complainant is the owner of trademark "RED BULL" with several international and national trademark registrations worldwide, e.g.:

- International Trademark no. 961854 RED BULL registered on March 19, 2008 (with priority date September 27, 2007) for goods and services in classes 25, 28, 32, 41 and 43 (in particular in class 32: Nonalcoholic beverages including refreshing drinks, energy drinks, whey beverages, isotonic, hypertonic and hypotonic drinks (for use and/or as required by athletes); beer, malt beer, wheat beer, porter, ale, stout and lager; nonalcoholic malt beverages; mineral water and aerated waters; fruit drinks and fruit juices; syrups, essences and other preparations for making beverages as well as effervescent (sherbet) tablets and effervescent powders for drinks and non-alcoholic cocktails).

- European Union Trademark no. 017363094 RED BULL registered on January 31, 2018, for goods and services in classes 25, 28, 32, 41 and 43 (in particular in class 32: Beers; Mineral waters; Aerated waters; Non-alcoholic beverages; Fruit beverages and fruit juices; Syrups for making beverages; Preparations for making beverages; Energy drinks).

The Complainant also holds national and international trademark registrations or applications consisting of or containing the famous mark "RED BULL" in Austria and further 183 jurisdictions worldwide, including Russia, where the Respondent is allegedly located.

The Complainant's official webpage is [www.redbull.com](http://www.redbull.com).

The Complainant has recently discovered the website <http://redbull-club.online>, where the Complainant's trademarks are unlawfully used in the content of the website and in the domain name. In particular, the Respondent states on the website that it organizes a lottery "...together with the company RED BULL", which is not true to fact. According to the Complainant, this misleads consumers by creating a risk of confusion. The Complainant has never authorized the Respondent to use its trademarks. There is no business relationship between them.

The Complainant asserts the following:

1. The registered domain name <redbull-club.online> is identical or confusingly similar to a word mark [URS 1.2.6.1]:

For which the Complainant holds a valid national or regional registration and that is in current use

2. The Respondent has no legitimate right or interest to the domain name [URS 1.2.6.2]

The Respondent has no legitimate right or interest to the domain name

3. The domain name was registered and is being used in bad faith [URS 1.2.6.3]:

By using the disputed domain name, the Respondent intentionally attempted to attract for commercial gain, Internet users to the Respondent's 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 the Respondent's web site or location or of a product or service on the Respondent's web site or location.

**B. Respondent:**

The Respondent of the disputed domain name is Nikita Popov, popovagency from Moscow, Russia.

The Respondent has not filed an official response within the 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 Procedure Paragraph 9(d), in absence of a Response, the language of the Determination shall be English.

**D. Findings of fact:**

The registration date of the disputed domain name is as below:

<redbull-club.online> : 2021-03-11

Despite 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.

[URS 1.2.6.1] The registered domain name(s) is/are identical or confusingly similar to a word mark:

- (i) for which the Complainant holds a valid national or regional registration and that is in current use; or
- (ii) that has been validated through court proceedings; or
- (iii) that is specifically protected by a statute or treaty in effect at the time the URS complaint is filed.

[URS 1.2.6.2] Registrant has no legitimate right or interest to the domain name.

[URS 1.2.6.3.] The domain was registered and is being used in bad faith.

**E. Reasoning:**

**1. The domain name is identical or confusingly similar to a word mark**

To satisfy URS 1.2.6.1, a Complainant needs to prove its rights in a word mark and the domain name(s) is/are identical or confusingly similar to the word mark.

In the present case, the Examiner finds that the Complainant is the producer of the worldwide famous RED BULL Energy Drink and owns trademark registrations for RED BULL in different jurisdictions.

The Complainant claims that the disputed domain name is confusingly similar to the Complainant's marks, since it entirely contains the Complainant's highly distinctive mark "RED BULL". The Examiner accepts that the addition of the descriptive and generic term "club" (preceded by a hyphen) does not avoid confusing similarity between the domain name and the Complainant's trademarks, since the trademark RED BULL is clearly recognizable within the domain name.

In addition, the Examiner also finds that the RED BULL trademark is internationally famous and has a very strong reputation all over the world as constantly confirmed by UDRP Panels.

The Examiner also finds that the ".online" generic top-level domain ("gTLD") does not prevent the finding of confusing similarity under the first element.

For the foregoing reasons, the Panel finds the Complainant has satisfied URS 1.2.6.1 as the Disputed Domain Name is confusingly similar to the Complainant's registered trademarks.

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

To satisfy URS 1.2.6.2, the Complainant must first make a *prima facie* case that the Respondent lacks rights and legitimate interests in the domain name(s), and the burden of prove then shifts to the Respondent to show it does have rights or legitimate interests.

The Complainant asserts that the Respondent has not been authorized by the Complainant to use the trademark RED BULL in the disputed domain name or the content of the website. Moreover, in the case file there are no evidence that the Respondent has been commonly known by the disputed domain name and has acquired any trademark. The Complainant claims that the disputed domain name fully contains the Complainant's well-known trademark RED BULL which is not a trademark that one would legitimately adopt as a domain name unless to suggest an affiliation with the Complainant and the Examiner agrees.

The Examiner also finds that the Respondent intends to affiliate by using the Complainant's famous device mark with the red colored double-bulls on the website to make untrue statement about organizing the lottery together with the Complainant, which is neither "non-commercial" nor fair use.

The Examiner finds that the Complainant has met its burden and established a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name and the Respondent has not rebutted the assertion.

For the foregoing reasons, the Panel finds the Complainant has satisfied URS 1.2.6.2 as the Respondent has no legitimate rights or interest to the disputed domain name.

## **3. The domain name was registered and is being used in bad faith**

To satisfy URS 1.2.6.3, the Complainant must prove both the registration and use of the domain name are in bad faith.

The Complainant claims the Respondent uses the Complainant's famous device mark with the red colored double-bulls on the website to make untrue statement about organizing the lottery together with Complainant, which misleads consumers by creating a risk of confusion. In addition, the Respondent has not been commonly known by the disputed domain name.



Having reviewed the evidence provided by the Complainant of the website associated to the disputed domain name, the Examiner agrees that the Respondent did have actual knowledge of the RED BULL trademark demonstrating the bad faith registration and disrupts Complainant's business and attempted to commercially benefit off the RED BULL trademark in bad faith.

By using the disputed domain name, the Respondent intentionally attempted to attract for commercial gain, Internet users to the Respondent's web site, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's web site or location or of a product or service on the Respondent's web site or location.

For the foregoing reasons, the Panel finds the Complainant has satisfied URS 1.2.6.3 as the Respondent registered the disputed domain name and is using it in bad faith.

#### **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): REDBULL-CLUB.ONLINE Suspend 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: Ganna

Surname: Prokhorova

Date: 2021-07-30