



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

URS DISPUTE NO. 0B231F32

Determination DEFAULT

I. PARTIES

Complainant(s): Caroll International (FR)
Complainant's authorized representative: MIIP - MADE IN IP (FR)

Respondent(s): Domain Admin, Whoisprotection.cc (MY)

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

Domain Name: CAROLL-SELL.SHOP
Registry Operator: GMO Registry, Inc.
Registrar: Web Commerce Communications Limited dba WebNic.cc

III. PROCEDURAL HISTORY

Complaint submitted: 2024-03-21 17:10
Lock of the domain name(s): 2024-03-27 17:35
Notice of Complaint: 2024-11-28 12:32
Default Date: 2024-04-12 00:00
Notice of Default: 2024-04-12 10:25
Panel Appointed: 2024-04-12 10:28
Default Determination issued: 2024-04-16 19:21

IV. EXAMINER

Examiner's Name: Alejandro Touriño Pena

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 declares that it is a famous French clothing brand for women, created in 1963, that sells products online and offline.

The Complainant is the rightsholder of the following trademarks, which have been considered as well-known by a previous URS decision (MFSD URS DISPUTE NO. 9A037A5B):

- European Union Trademark CAROLL n° 009892431 filed on 2011-04-13 in classes 14, 18 and 25 and notably handbags, clothing, footwear (other than orthopaedic footwear).

- International trademark CAROLL n°1208979 filed on 2014-02-15 in classes 18, 25 and 35 (notably handbags, clothing, footwear (other than orthopaedic footwear)) and designating : AU - BH - CO - EM - GB - GE - IL - IN-KR - MG - MX - NO - NZ - OA - OM - SG - TH - TM - TN - TR - US - UZ - AL - AM - AZ - BA - BX - BY - CH - CN -DE - DZ - EG - ES - IR - IT - KG - KZ - LI - LV - MA - MD - ME - MK - PT - RS - RU - TJ - UA - VN - GB - IN - NZ -SG - US.

- French trademark CAROLL n°1233265 filed on 1983-04-15 in classes 18 and 25 (renewed)

The disputed domain name <CAROLL-SELL.SHOP> was registered by the Respondent on 2024-03-14.

The Complainant contends that by using the domain name, the Respondent has intentionally attempted to attract for commercial gain, Internet users to the Respondent's website, by creating a likelihood of confusion with the Complainant's trademark and products.

The Complainant also asserts that the contested domain name reproduces the CAROLL trademark in its entirety along with the word "SELL", which is purely descriptive.

The Complainant maintains that the Respondent has not been authorized by the Complainant to use the CAROLL trademark or to register any domain name incorporating such trademark. Furthermore, the disputed domain name resolved to a website reproducing the Complainant's official website, offering the same clothing articles and including, in the About us section ("à propos de nous"), the history of a competitor, Grain de Malice.

The Complainant also asserts that the domain name has intentionally intended to attract consumers by using the CAROLL trademark in the domain name, also reproducing the general appearance of the Complainant's official website and claims to offer CAROLL items at attractive prices.

It is therefore in the public interest to suspend the disputed domain name.

B. Respondent:

The Respondent has not replied to the Complaint.

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 domain name <CAROLL-SELL.SHOP> was registered on 2024-03-14. The domain name in question resolves to a website reproducing Complainant's trademark and products.

The Complainant has rights in the CAROLL trademark since an earlier date than the creation of the disputed domain name 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 registered domain name is identical or confusingly similar to a word mark;
- That the Registrant has no legitimate right or interest to the domain name;
- That the domain 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 Complainant is the rightsholder of several trademark registrations containing the term CAROLL since 1983-04-15.

The Complainant has referred to the notoriety of the trademark CAROLL as supported by a previous Determination by the Center (MFSD URS DISPUTE NO. 9A037A5B).

The disputed domain name is confusingly similar to the Complainant's trademark. Indeed, the disputed domain name reproduces the CAROLL trademark in its entirety along with the word "SELL" followed by the new gTLD <.SHOP>, which are both purely descriptive.

The Examiner thus 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 name(s)

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 disputed domain name. Nevertheless, the burden of proof is still on the Complainant to make a prima facie case against the Respondent.

In that sense, the Complainant indeed asserts that it has not authorized the Respondent nor granted the Respondent a license or permission to register the disputed domain name or use its trademark. In addition, the lack of evidence as to whether the Respondent is commonly known by the disputed domain name or the absence of any trademarks or trade names registered by the Respondent corresponding to the disputed domain name corroborate with the indication of the absence of any right or legitimate interest.

Furthermore, the Complainant has proved that the domain name <CAROLL-SELL.SHOP> resolves to an e-commerce website reproducing the Complainant's trademark and look and feel, also offering the Complainant's products, with no authorization or disclaimer stating that it is not the Complainant's official website.

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 disputed domain name and that the requirements of Paragraph 1.2.6 (ii) of the URS Procedure have been satisfied.

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

URS Procedure 1.2.6.3 identifies a non-exclusive list of circumstances that Examiner could consider as constituting bad faith.

Among them, it seems clear in the Examiner's view that in the case at hand the Respondent had knowledge of the Complainant's trademark when registering the disputed domain name. Indeed, the disputed domain name entirely incorporates the Complainant's CAROLL trademark, with the mere addition of the descriptive word "SELL" and the gTLD <.SHOP>.

In addition, the domain name redirects the users to a website dedicated to selling CAROLL clothing, reproducing the Complainant's look and feel, giving the impression to be an official store of the Complainant. Thus, the only purpose of the Respondent must be to create likelihood of confusion to mislead and attract consumers for commercial gain, which is indicative of bad faith use pursuant to the URS Procedure.

In the absence of any explanation from the Respondent, the Examiner finds more likely than not that the Respondent intentionally registered a domain name confusingly similar to the Complainant's trademarks to benefit from the good will associated with said trademarks.

In these circumstances, the Examiner finds that the requirements of Paragraph 1.2.6 (iii) of the URS Procedure have been satisfied.

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: CAROLL-SELL.SHOP

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: Alejandro

Surname: Touriño Pena

Date: 2024-04-16