



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

**URS DISPUTE NO. 10BBD4BE**

Determination DEFAULT

**I. PARTIES**

Complainant(s): Buffalo Boots GmbH (DE)  
Complainant(s)'s authorized representative(s): Inlex IP Expertise (FR)

Respondent(s): Privacy Guardian, See [PrivacyGuardian.org](https://www.privacyguardian.org) (US)

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

Domain Name(s): BUFFALOBOOTS.ONLINE  
Registry Operator: DotOnline Inc.  
Registrar: NameSilo, LLC

**III. PROCEDURAL HISTORY**

Complaint submitted: 2020-12-01 09:31  
Lock of the domain name(s): 2020-12-01 13:28  
Notice of Complaint: 2020-12-01 13:49  
Default Date: 2020-12-16 00:00  
Notice of Default: 2020-12-16 16:10  
Panel Appointed: 2020-12-16 16:11  
Default Determination issued: 2020-12-21 12:00

**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 is Buffalo Boots GmbH domiciled in Germany.

Among others, the Complainant is the owner of the following registered trademarks:

- International Trademark Buffalo No. 669747 registered on December 7th, 1996 in class 25 for shoes;
- International Trademark Buffalo No. 717749 registered on July 1st, 1999 in class 25 for Outerclotthing for ladies and gentlemen, footwear;
- International Trademark Buffalo No. 1234652 registered on October 22nd, 2014, notably in class 25 for Footwear.

The Complainant's official webpage is: <http://buffalo-boots.com>.

The BUFFALO trademarks are widely used in relation to clothing and footwear, namely classic sneakers of a distinct style.

The Complainant has recently discovered the website <https://www.buffaloboots.online> where the counterfeits of the Complainant's products, namely classic sneakers, are being sold. The registrant of the domain name <buffaloboots.online> has not been authorized by the Complainant to use the name BUFFALO. There is no business relationship between them. According to the Complaint, the registration of the domain name <buffaloboots.online> and the creation of the currently associated website are constitutive of identity theft, in addition to being counterfeiting infringements.

The Complainant asserts the following regarding the Respondent:

1. The registered domain name <buffaloboots.online> is identical or confusingly similar to a word or 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]

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

By using the domain name(s), 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 identification of the registrant is hidden due to GDPR.

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:

<buffaloboots.online>: 2020-10-09

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(s) is(are) 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 reputed and well-known for its products (footwear) and also owns trademark registrations containing the expression BUFFALO in different jurisdictions.

The Complainant claims that the Disputed Domain Name is confusingly similar to the BUFFALO trademark. The Examiner accepts that the additional term “boots” does not alter the underlying trademark or negate the confusing similarity and it does not sufficiently differentiate the Disputed Domain Names from that trademark. Moreover, the use of the generic term "boots" after the trademark BUFFALO, increases the likelihood of confusion with the Complainant's official website under the domain <buffalo-boots.com> and directly identifies the products sold – “boots” (footwear).

In addition, 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 BUFFALO trademark in the Disputed Domain Name or the content of the website. The Respondent's use is not a legitimate noncommercial or fair use, and is not in connection with a bona fide offering of goods or services.

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(s) was(were) registered and is(are) 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 Disputed Domain Name was registered and is being used in bad faith since the Registrant has intentionally attempted to attract consumers by using in such domain name the BUFFALO trademark of the Complainant to sell counterfeits of the Complainant's products, namely the classic sneakers.

Moreover, the Registrant is selling the counterfeited products to a much lower price, by this practice, the Registrant is diverting the Complainant's clientele. In fact, the Internet users can believe that the associated website [www.buffaloboots.online](http://www.buffaloboots.online) belongs to the Complainant, and that the latter is selling the sneakers presented on the website. With this website, the Registrant is merely trying to drive the Complainant customer's attention to its own website.

Furthermore, the Registrant's bad faith is also substantiated by the fact that he uses on the website corresponding to the Disputed Domain Name the identity of the Complainant.

From all the above, it is clear that the Respondent's purpose is to capitalize on the reputation of the Complainant's trademarks by diverting Internet users seeking BUFFALO products to its website for financial gain, intentionally creating a likelihood of confusion with the Complainant's BUFFALO trademarks as to the source, sponsorship, affiliation, or endorsement of its website and/or the goods offered or promoted through said website.

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): BUFFALOBOOTS.ONLINE 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: Ganna

Surname: Prokhorova

Date: 2020-12-21