



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

URS DISPUTE NO. 12988F74

Determination DEFAULT

I. PARTIES

Complainant(s): Pauline (FR)
Complainant's authorized representative: MIIP – Made in IP (FR)

Respondent(s): Yuan Yan He (CN)

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

Domain Name(s): BREAL-FR.SHOP
Registry Operator: GMO Registry, Inc.
Registrar: Chengdu west dimension digital technology Co., LTD

III. PROCEDURAL HISTORY

Complaint submitted: 2024-01-04 11:50
Lock of the domain name(s): 2024-01-09 11:14
Notice of Complaint: 2024-01-09 15:34
Default Date: 2024-01-24 00:00
Notice of Default: 2024-01-25 13:01
Panel Appointed: 2024-01-26 15:43
Default Determination issued: 2024-01-29 18:27

IV. EXAMINER

Examiner's Name: Paddy Tam

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 renowned brand of women fashion based in France (<https://www.breal.net/>) which is part of GROUPE BEAUMANOIR and the exclusive proprietor of the trademark BREAL.

The Complainant is the holder of the BREAL trademark worldwide, including but not limited to the followings:

- International trademark BREAL No. 1190522 registered on 22/07/2013 in classes 3, 9, 14, 16, 18, 24, 25, 35, 38, 41 & 42;
- French Trademark BREAL No. 4015189 filed on 25/06/2013 in classes 16, 24, 35, 38 & 41;
- EU trademark BREAL No. 011942241 filed on 28/06/2013 in classes 03, 09, 14, 16, 18, 24, 25, 35, 38, 41 & 42.

These trademarks are currently in use, notably through the Complainant's official website at <https://www.breal.net/>. The Complainant is also the owner of the domain name <breal.net>.

The Complainant asserts the following regarding the Respondent:

1. The registered domain name is identical or confusingly similar to a word or mark [URS1.2.6.1]: For which the Complainant holds a valid national or regional registration and that is in current use;
2. Registrant has no legitimate right or interest to the domain name [URS 1.2.6.2];
3. The domain name was registered and are being used in bad faith [URS 1.2.6.3].

B. Respondent:

The Respondent appears to be an individual based in An Hui, China.

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.

C. Findings of fact:

The Registration Date of the Disputed Domain Name is:

- BREAL-FR.SHOP: December 28, 2023

Despite the Respondent has defaulted, the Examiner is still required to review the case on the merits of the claim. [URS 6.3]

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 shall prove its rights in a word mark which is in use and that the domain name is identical or confusingly similar to the word mark.



In the present case, the Examiner is satisfied that the Complainant is a well-known brand of women fashion which also owns trademark registrations for the wording BREAL in different jurisdictions.

The Complainant claims that the Disputed Domain Name is confusingly similar to the BREAL trademark as they consist of the entire BREAL mark plus the country code abbreviation FR for France. The area code FR has no other purpose than misleading the consumers and makes them believe that the Disputed Domain Name is owned by the Complainant as which is based in France. Thus, the Disputed Domain Name is confusingly similar to the trademarks of the Complainant.

By doing side-by-side comparison, the Examiner accepts that the Disputed Domain Name is visually similar to Complainant's BREAL trademark and the additional term and/or hyphen do not negate the similarity.

For the foregoing reasons, the Panel finds that the Complainant has satisfied URS 1.2.6.1.

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(s) lacks rights and legitimate interests in the domain name, and the burden of prove then shifts to the Respondent(s) 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 BREAL trademark or to register any domain name. There is no legal or business relationship between the Complainant and the Respondent. The Respondent has no prior rights such as trademarks or legitimate interests in the Disputed Domain Name as the registration of the Disputed Domain Name was after the Complainant had registered its BREAL trademarks. In particular, the Disputed Domain Name is used in connection with a fraudulent website which reproduces the Complainant's trademark, logo, pictures, items etc.

Having reviewed the screenshots of the website resolved by the Disputed Domain Name, the Examiner finds that the Complainant has 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 within the required Response period.

For the foregoing reasons, the Panel finds that the Complainant has satisfied URS 1.2.6.2.

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 that the Disputed Domain Name was used in bad faith since the Respondent has intentionally intended to attract consumers by using the BREAL trademark in the Disputed Domain Name. In addition, the Respondent reproduces the general appearance of the Complainant's official website and claims to offer BREAL items at bargain prices to attract the consumer and carry out scams. Moreover, when registering the Disputed Domain Name, the Respondent employed a privacy service to hide its identity. The fraudulent use of the

Disputed Domain Name proves a prior awareness of the Complainant's trademark BREAL by the Respondent.

Having reviewed the screenshots of the websites resolved by the Disputed Domain Name, and in the absence of a timely Response submitted by the Respondent, the Examiner agrees that the Respondent did have actual knowledge of the BREAL trademark demonstrating the bad faith registration, disrupts Complainant's business and attempts to commercially benefit off the BREAL trademark in bad faith.

For the foregoing reasons, the Panel finds that the Complainant has satisfied URS 1.2.6.3.

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): BREAL-FR.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: Paddy

Surname: Tam

Date: 2024-01-29