



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

URS DISPUTE NO. 1D381E05

Determination DEFAULT

I. PARTIES

Complainant(s): MA BOUTIQUE O NATUREL (France)
Complainant's authorized representative: MIIP MADE IN IP (France)
Respondent(s): Nathanael Dvora (France)

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

Domain Names: onatera.app, onatera.store
Registry Operator: CentalNic Registry, Google Registry
Registrar: OVH Groupe SA

III. PROCEDURAL HISTORY

Complaint submitted: 14 January 2025
Lock of the domain name(s): 24 January 2025 and 30 January 2025
Notice of Complaint: 7 February 2025
Default Date: 21 February 2025
Notice of Default: 24 February 2025
Panel Appointed: 26 February 2025
Default Determination issued: 28 February 2025

IV. EXAMINER

Examiner's Name: Nathalie Dreyfus

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 the French company MA BOUTIQUE O NATUREL, known under the name "ONATERA," which corresponds to the Complainant's trading name and trademarks. The Complainant offers retail services featuring a wide range of natural and organic products, including vitamins, food supplements, dietary products, beauty products, essential oils, plant extracts, and more.

The Complainant contends that:

1. The disputed domain names are identical or confusingly similar to a word mark and the gTLDs <.app> and <.store> are not of a nature to prevent any likelihood of confusion.
2. The Respondent has no legitimate right or interest to the domain names and has not been authorized by the Complainant to use the domain names.
3. The domain names have been registered and used in bad faith. The Complainant asserts that the registration of domain names identical to Complainant's trademark ONATERA cannot be coincidental. The Respondent registered the domain names with the intent to unduly benefit from the Complainant's widely well-know trademarks. Additionally, the domain names lead Internet users to falsely believe that the associated websites are operated by the Complainant, which is not the case. Moreover, the domain names resolve to inactive web pages, which are detrimental to Complainant's business and reputation, particularly since the Complainant operates in the digital sector.

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.

Consolidation:

The disputed domain names were registered through the same registrar on September 9, 2024.

Additionally, both disputed domain names reproduce Complainant's trademark "ONATERA" identically and strictly.

Based on the evidence presented by the Complainant, the IP addresses of the MX servers configured with both disputed domain names are the same.



Based on the evidence on record, the Examiner has accepted the consolidation of the disputed domain names <onatera.app> and <onatera.store>.

D. Findings of fact:

The Complainant has proved to own the following trademark rights:

- French Trademark “ONATERA” No. 4246325 dated February 4th, 2016 covering goods and services in classes 5 and 35;
- French trademark “ONATERA” No. 4887954 dated July 28th, 2022 covering goods and services in classes 1; 3; 4; 5; 16; 18; 20; 21; 24; 27; 29; 30; 32; 35 and 40;
- International trademark “ONATERA” No. 1318513 dated June 24th, 2016 based on the French trademark No. 42466325, covering goods and services in class 35 and designating the European Union and Switzerland;
- International trademark “ONATERA” No. 1740665 dated January 12th, 2023 based on the French trademark No. 4887954, covering goods and services 1; 3; 4; 5; 16; 18; 20; 21; 24; 27; 29; 30; 32; 35 and 40 and designating the European Union and Switzerland.

The Complainant also owns the domain name <onatera.com>.

The disputed domain names have been registered on September 9, 2024

E. Reasoning:

1. The domain names 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 that the domain name is identical or confusingly similar to the word mark.

The Examiner finds that both disputed domain names are strictly identical to the Complainant’s trademarks.

The Tlds <.app> and <.store> do not reduce the likelihood of confusion.

Under these circumstances, the Examiner finds that the requirements of URS Procedure 1.2.6.1 have been satisfied.

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

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 disputed domain names, and the burden of prove then shift to the Respondent(s) to show rights or legitimate interests.

Complainant asserts that no authorization or permission of any kind has been given by the Complainant to the Respondent to register and use the disputed domain names.

Furthermore, the Respondent had the opportunity to provide arguments supporting its rights or legitimate interests in the disputed domain names. However, by failing to file a response, the Respondent has missed this opportunity

Under these circumstances, the Examiner finds that the requirements of URS Procedure 1.2.6.2 have been satisfied.

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

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

The Examiner finds that the Respondent could not have been unaware of the ONATERA trademarks, given their distinctiveness. Indeed, the term “onatera” has no meaning in French or English, making difficult to believe that the Respondent was unaware of their existence.

Additionally, the disputed domain names resolve to an inactive page and a registrar holding page. However, the Panel finds that this state of inactivity does not amount to a bona fide use or preparation to use the domain name, especially considering that the domain names are identical to the Complainant’s trademark ONATERA. This could lead Internet users to mistakenly assume that these non-functional domain names are owned by the Complainant. Finally, the configuration of email servers on the disputed domain names poses a potential phishing risk.

Under these circumstances, the Examiner finds that the disputed domain names have been registered and are being used in bad faith pursuant URS Procedure 1.2.6.3.

4. Abusive Complaint

The Examiner finds that the complaint is not abusive and it did not contain deliberate material falsehoods.

VIII. DETERMINATION

A. Demonstration of URS elements

Demonstrated

B. Complaint and remedy

Complaint: Accepts

Domain Names: onatera.app, onatera.store
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: Nathalie

Surname: Dreyfus

Date: 28/02/2025