



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

URS DISPUTE NO. 1DBD6F75

Determination DEFAULT

I. PARTIES

Complainants: YOKONO EUROPE SLU and GRUPO INSEOR SL
Complainants' authorized representative(s): PADIMA TEAM, SLP, Maria Cristina Martinez Tercero (SP)

Respondent(s): Privacy Guardian, See PrivacyGuardian.org (US)

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

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

III. PROCEDURAL HISTORY

Complaint submitted: 2020-08-19 14:47
Lock of the domain name(s): 2020-08-24 01:20
Notice of Complaint: 2020-08-24 15:09
Default Date: 2020-09-08 00:00
Notice of Default: 2020-09-08 11:38
Panel Appointed: 2020-09-08 11:53
Default Determination issued: 2020-09-11 16:38

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 YOKONO EUROPE SLU and its related company GRUPO INSEOR SL both domiciled in Spain and owners of YOKONO trademarks, used, among others, for shoes.

Among others, YOKONO EUROPE SLU is the owner of the following registered trademarks:^[1]

- EUTM no009835414 "YOKONO" registered and in force for the following goods and services: 10, 18, 25, 35 ICGS classes;

- EUTM no018010577 "YOKONO" registered and in force for the following goods and services: 10, 14, 18, 25, 35 ICGS classes.

The official webpage of the company is <https://yokono.es>.

The Complainant has recently discovered the website <<https://www.yokono.es>> which is a fraud page that reproduces, without consent, the Complainant's trademarks, pictures, logo, etc. on its domain name. According to the Complaint the photographs that appear on this website are owned by YOKONO EUROPE SLU. In addition, the whole webpage is trying to show legal e-commerce, but the real situation is that YOKONO EUROPE SLU has not authorized either the domain name or the content of the web site.

The Complainant asserts the following regarding the Respondent:

1. The registered domain name <yokono.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]

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

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 RGPD.

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:

<yokonoes.online>: 2020-08-19

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 a reputed, renowned trademark, especially in Spain, thanks to its shoes, who also owns trademark registrations for YOKONO in different jurisdictions.

The Complainant claims that the Disputed Domain Name is confusingly similar to the YOKONO trademark. The Examiner accepts that the additional term “es” 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 term “es” after the trademark YOKONO, increases the likelihood of confusion with YOKONO's official website, because is directly identifying the origin of the original products, as YOKONO is domiciled in Spain.

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 trademark YOKONO 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 domain names.

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 website on the Disputed Domain Name is a fraud page that reproduces the YOKONO trademark and pictures owned by the Complainant on the website under the Disputed Domain Name without consent of the Complainant. Furthermore, the Respondent seems to use the brand YOKONO to manufacture, distribute, and/or offer YOKONO products in Spain and in other countries. In addition, the whole webpage is trying to show a legal ecommerce, but the real situation is that the Complainant has not authorized either the domain name or the content of the web site.

In addition, the offer of YOKONO's products and the use of photographs and the trademark logo owned by the Complainant implies a clear infringement of YOKONO registered trademarks, also an abuse of the use of the domain name and is made in fraud to consumers and bad faith of the Respondent.

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 YOKONO products to its website for financial gain, intentionally creating a likelihood of confusion with the Complaint's 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): YOKONOES.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: 2020-09-11