



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

URS DISPUTE NO. 2A5534BD

Determination DEFAULT

I. PARTIES

Complainant(s): Kocca S.r.l. (IT)
Complainant's authorized representative: Spheriens (IT)

Respondent(s): Super Privacy Service LTD c/o Dynadot (US)

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

Domain Name(s): KOCCAONLINE-IT.SHOP
Registry Operator: GMO Registry, Inc.
Registrar: Dynadot, LLC

III. PROCEDURAL HISTORY

Complaint submitted: 2023-03-06 11:31
Lock of the domain name(s): 2023-03-07 05:08
Notice of Complaint: 2023-03-07 09:27
Default Date: 2023-03-22 00:00
Notice of Default: 2023-03-22 09:27
Panel Appointed: 2023-03-22 09:23
Default Determination issued: 2023-03-26 23:57

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 KOCCA S.r.l., an Italian company active in the manufacturing, marketing, and selling of fashion clothing and accessories for women since 1996. KOCCA has more than 75 registrations for "Kocca", similar marks in more than 56 countries since 1997 and owns registrations for domain names comprising the mark "Kocca". The complainant markets and sells its products all over the world, mainly online or through local distributors as well as through flagship stores located all around Italy.

The Complainant is the owner of following trademarks:

- EU Trademark "Kocca" No. 001444363 registered on July 26, 2004 for the following ICGS classes: 03, 09, 14, 18, 25;

- International Trademark "Kocca" No. 1090588 registered on July 18, 2011 for the following ICGS classes: 09, 18, 25;

The Complainant's official webpages are:

- <https://kocca.com/>

- <https://kocca.it/>

- <https://kocca.eu/>

The Complainant asserts the following regarding the Respondent:

1. The registered domain name <koccaonline-it.shop> is identical or confusingly similar to a word or mark [URS 1.2.6.1]:

(i) For which the Complainant holds a valid national or regional registration and that is in current use;

2. The Registrant has no legitimate right or interest to the domain name [URS 1.2.6.2];

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

d. By using the domain name Registrant has intentionally attempted to attract for commercial gain, Internet users to Registrant'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 Registrant's web site or location or of a product or service on that web site or location.

B. Respondent: The identification of the Registrant is hidden.

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 Rules 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:

<koccaonline-it.shop>: 2023-02-01;

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, well-known company, especially in Italy, thanks to its clothing and accessories for women, who also owns trademark registrations for "KOCCA" in different jurisdictions all over the world.

The Complainant claims that the Disputed Domain Name is extremely similar to the "KOCCA" trademark. The Examiner accepts that the additional term "online-it" 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 "online-it" after the trademark "KOCCA" increases the likelihood of confusion, as the use of the part of the domain name "-it" directly refers consumers to the country of origin of the KOCCA's original products, while the use of the word "online" implies the purchase of goods through an online store.

In addition, the Examiner also finds that the ".shop" generic top-level domain ("gTLD") does not prevent the finding of confusing similarity under the first element. Furthermore, the use of such a "gTLD" additionally augments the probability of confusion.

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 "KOCCA" in the Disputed Domain Name or the content of the website. The Respondent is not otherwise affiliated with KOCCA and does not own any trademark for "koccaonline-it". Thus, 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 was registered aiming at taking unfair advantage of the reputation of KOCCA, since the Registrant has intentionally attempted to attract consumers by using "Kocca" trademark in the Disputed Domain Name. Furthermore, the website on the Disputed Domain Name contains Complainant's trademark and copyrighted images without any authorization to sell counterfeits of the Complainant's products at a significantly lower price.

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 KOCCA products to its website for financial gain, intentionally creating a likelihood of confusion with the Complainant's trademarks and copyrighted images 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): KOCCAONLINE-IT.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: Ganna

Surname: Prokhorova

Date: 2023-03-26