



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

**URS DISPUTE NO. 2F572181**

Determination DEFAULT

**I. PARTIES**

Complainant: Under Armour, Inc.

Complainant's authorized representative(s): Convey S.r.l., Michele Provera, IT

Respondent(s): WhoisGuard Protected, WhoisGuard, Inc., PA

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

Domain Name(s): UASPORTS.STORE

Registry Operator: DotStore Inc.

Registrar(s): NameCheap, Inc.

**III. PROCEDURAL HISTORY**

Complaint submitted: 2020-06-18 14:58

Lock of the domain name(s): 2020-06-18 20:10

Notice of Complaint: 2020-06-18 22:34

Default Date: 2020-07-03 00:00

Notice of Default: 2020-07-03 13:16

Panel Appointed: 2020-07-03 14:17

Default Determination issued: 2020-07-05 22:33

**IV. EXAMINER**

Examiner's Name: Maria Cristina Martínez-Tercero Molina

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 a US company manufacturing footwear, sports and casual apparel. The Complainant is the owner of the trademark “UA” and “UA UNDER ARMOUR”, with several trademark registrations worldwide including:

- US Trademark n. 2509632 for UA UNDER ARMOUR of August 28, 2001 in class 25
- US Trademark n. 4023973 for UA of September 06, 2011 in class 3.
- International Trademark n. 1381276 of November 01, 2017 in class 25.
- International Trademark n. 1398159 for UA of November 09, 2017 in classes 09, 28.
- European Union Trademark n. 009538166 of May 6, 2011 in classes 9, 18, 25, 28.
- European Union Trademark n. 012107439 of September 6, 2014 in classes 9, 35

The trademark UA has been registered as domain name, i.e. *ua.com*, redirected to [www.underarmour.com](http://www.underarmour.com) (official website of the Complainant), and it is reproduced on the Complainant's website and items.

The Complainant asserts the following regarding the Respondent:

1. The registered domain name is identical or confusingly similar to a word mark [URS 1.2.6.1] for which the Complainant holds a valid national or regional registration and that is in current use.

The disputed domain name entirely incorporates Complainant’s trademark UA as initial element, followed by the term “sports”, which is able to induce more confusion among the Internet users because the Complainant’s business in the footwear and sports.

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

The Complainant is not aware of the existence of any evidence demonstrating that the Respondent might be commonly known by the disputed domain name as an individual, business or other organization.

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

The disputed domain name is used as a commercial website where the Complainant’s branded items are sold, likely counterfeit products considering the low price, without any disclaimer informing about the lack of relationship with the Complainant. The Respondent’s purpose is to capitalize on the reputation of the Complainant’s trademarks by diverting Internet users seeking UA and UNDER ARMOUR products to his websites for financial gain, by intentionally creating a likelihood of confusion with the Complainant's trademarks as to the source, sponsorship, affiliation, or endorsement of its website and/or the goods offered or promoted through said website.

In addition, the Complainant contends that two cease and desist letters were sent to the Respondent, with no response.

## **B. Respondent:**

The respondent did not submit a 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 disputed domain name was registered by the Respondent on November 13, 2019.

The Complainant is the owner of the trademark registrations referred above.

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**

First, and in order to comply with this requirement, the Complainant must demonstrate its trademark rights and use in commerce. From the evidence filed in the present case, the Examiner satisfied that the Complainant is a well-known company in the field of footwear, sports, and casual apparel who also owns trademark registrations for “UA” in different jurisdictions. Furthermore, the Complainant has proven the use of its trademark.

Having established this, the disputed domain name fully incorporates the Complainant’s trademark, followed by the term “sports”, a generic word which directly refers to the Complainant’s business and does not add any distinctive characteristic that would dispel a finding of confusingly similarity between the trademark and the domain name.

Based on the above and the evidence of record, the Examiner finds that the requirements set for under URS 1.2.6.1 have been satisfied.

##### **2. Respondent has no rights or legitimate interests to the domain name(s)**

To satisfy this requirement, the Complainant must first make a prima facie case that the Respondent lacks rights and legitimate interests in the domain name, and the burden of prove then shifts to the Respondent to show it does have rights or legitimate interests.

In this regard, the Complainant asserts that the Respondent has no connection with it, and it is not an authorized seller of its products. The Complainant also states that it is not aware of the existence of any evidence demonstrating that the Respondent might be commonly known by a name corresponding to the disputed domain name as an individual, business, or other organization.

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.

The Respondent has not rebutted the assertion.

In addition, as per the evidence on record and focusing on the content of the disputed domain name, it is apparent that the Respondent not only do not have any legitimate interest in the disputed domain name, but is using the domain name to attract Internet users to the website,

creating a likelihood of confusion with the Complainant's trademark and trading off the Complainant's reputation. Please see the third requirement below for a more complete analysis.

Therefore, the Examiner finds 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 comply with URS 1.2.6.3, the Complainant must prove both the registration and use of the domain name are in bad faith.

The Complainant asserts that the Disputed Domain name is used as a commercial website where counterfeit products seems to being sold, without any disclaimer informing about the lack of relationship with the Complainant. Moreover, from the Complainant's perspective, the Respondent's purpose is to capitalize on the reputation of the Complainant's trademark by diverting Internet users seeking UA and UNDER ARMOUR products to its website for financial gain, by intentionally creating a likelihood of confusion with the Complainant's trademarks as to the source, sponsorship, affiliation or endorsement of its website and/or the goods offered or promoted through said website.

After having reviewed the screenshots of both the disputed domain name's website and the Complainant's official website, the Examiner considers that the domain name in dispute resolves to a website that reproduces elements and the look and feel of the Complainant's website, and this indicates that the purpose of the disputed domain name is to deceive potential consumers, by giving appearance that the website inside the domain name in dispute belongs to the Complainant. Furthermore, the term "sports" in the domain name and the ".store" TLD also demonstrates the bad faith of the Respondent, because "sports" describes the Complainant's market field, and the TLD directly informs potential consumers about the activity developed by the Respondent through the disputed domain name.

Finally, the WHOIS information provided by the Complainant shows that the Respondent is deliberately hiding its identity; this circumstance, together with the lack of response to the cease and desist letters sent by the Complainant, strongly indicates the bad faith in the registration and use of the domain name in dispute.

Considering the foregoing, the Examiner finds that the domain name in dispute was registered and has been used by the Respondent in bad faith, as per the requirements set forth under URS 1.2.6.3.

### **4. Abusive Complaint**

The Examiner finds that the Complaint is neither abusive nor contains deliberate material falsehoods.

## **VIII. DETERMINATION**

### **A. Demonstration of URS elements**

Demonstrated

### **B. Complaint and remedy**

Complaint: Accepts



Domain Name(s): UASPORTS.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: Maria Cristina

Surname: Martínez-Tercero Molina

Date: 5 July 2020