



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

URS DISPUTE NO. 31D42E70

Determination DEFAULT

I. PARTIES

Complainant: Royalmail Group Limited, UK
Complainant's authorized representative(s): Dac Beachcroft Llp, UK

Respondent: Zhou Qiang, CN

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

Domain Name(s): royalmail.xyz
Registry Operator: Xyz.com Llc
Registrar: Chengdu West Dimension Digital Technology Co. Ltd

III. PROCEDURAL HISTORY

Complaint submitted: 2016-02-18 13:48
Lock of the domain name(s): 2016-02-18 21:23
Notice of Complaint: 2016-02-19 18:37
Default Date: 2016-03-05 00:00
Default notice: 2016-03-07 15:43

IV. EXAMINER

Examiner's Name: Molly Li

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 asserts to be the owner of several trademark registrations for "ROYAL MAIL" which are identical to the disputed domain name. It further asserts to be a leading provider of postal and delivery services in the United Kingdom, being an extremely well-known company nationally and internationally with a history dating nearly 500 years.

On the Complainant's point of view the Respondent does not have any legitimate right or interest to the disputed domain name since he does not trade as "Royal Mail", nor is he known as such within his trade or has he been provided with license or permission to use the Complainant's trademark.

As to the registration and use of the disputed domain name in bad faith, the Complainant asserts that the Respondent, by using the disputed domain name, intentionally attempted to attract for commercial gain, Internet users to his website, by creating a likelihood of confusion with the Complainant's mark as to source, sponsorship, affiliation, or endorsement of his website. Moreover, the Complainant's trademark is not generic and is the main name of the Complainant, which is nearly 500 years old.

Lastly, the Complainant states that its solicitor has been unable to contact the Respondent due to his location and cannot confirm whether the Whois contacts details provided are correct.

B. Respondent:

The Respondent did not reply to the Complaint.

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.

Moreover, as per para. 4.2 URS Procedure and 2(a)(i) URS Rules, MFSD notified the Registrant of the Complaint, by sending a hard copy of the Notice of Complaint to the addresses listed in the Whois contact information, in particular by sending the Notice of Complaint to all email, postal-mail and facsimile addresses shown in the domain name's registration data in the Whois database for the registered domain-name holder, the technical contact, and the administrative contact. Notification of Registrant of the Complaint by postal-mail and facsimile failed, since the postal-mail and fax number provided by the Registrant for domain-name holder, technical contact and administrative contact were incorrect.

According to para. 9(d) URS Rules provides that *"in absence of a Response, the language of the Determination shall be English"*, therefore this Determination is written in English.

D. Findings of fact:

The disputed domain name <royalmail.xyz> was registered on January 15, 2015. The website in Mandarin shows it a general news and advertisement website. It also displays pictures of naked women which convey porn information.

The Complainant has shown trademark rights over the expression "ROYAL MAIL" (Annex 3 to the Complaint).



E. Reasoning:

In spite of Respondent's default, URS Procedure 1.2.6 requires the Complainant to make a *prima facie* case, showing clear and convincing evidence for each of the three elements so as to have the disputed domain name suspended.

1. The domain name is identical or confusingly similar to a word mark

The Complainant is the owner, among others, of the UK trademark registration No. UK00002567872 for the word mark "ROYAL MAIL" registered on September 16, 2011 to cover goods and services in classes 09, 16, 35, 38, 41 and 42, as well as of the Chinese trademark registration No. 6799341 for the word mark "ROYAL MAIL" registered on June 23, 2008 to cover goods in class 16 (Annex 3 to the Complaint).

The domain name is identical to the Complainant's trademarks.

The Examiner thus finds that the Complaint meets the requirement of the URS 1.2.6 (i).

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

The Respondent, in not formally responding to the Complaint, has failed to invoke any of the circumstances, which could demonstrate, pursuant to the URS, any rights or legitimate interests in the disputed domain name. Nevertheless, the burden of proof is still on the Complainant to make a *prima facie* case against the Respondent.

In that sense, the Complainant indeed asserts that it has not authorized the Respondent nor granted him a license or permission to register the disputed domain name or use its trademarks.

Also, the lack of evidence as to whether the Respondent is commonly known by the disputed domain name or the absence of any trademarks or trade names registered by the Respondent corresponding to the disputed domain name, corroborate with the indication of the absence of a right or legitimate interest.

Under these circumstances and absent evidence to the contrary, the Examiner finds that the Respondent does not have rights or legitimate interests with respect to the disputed domain name and has therefore met the requirement of the URS 1.2.6 (ii).

3. The domain name(s) was(were) registered and is(are) being used in bad faith

According to the mainstream engine search in China and UK, the search of Royal Mail would reveal the Complainant and its registered trademarks. Moreover, as the Complainant points out its trademark is not generic and is the main name of the Complainant, the Respondent, being a Chinese resident, fails to respond to MFSD and thus fails to plausibly explain why it created such domain name which is made up of two English words that happen to be the Complainant's main name of nearly 500 years old.

Moreover, the disputed domain name <royalmail.xyz> refers to the website showing it to be a general news and advertisement website. It also displays pictures of naked women which convey porn information. In this Examiner's point of view, by such use 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 source, sponsorship, affiliation, or endorsement of his website, and, therefore, such use does not qualify as a *bona fide* use.

Lastly, the Respondent provides incorrect postal-mail and fax number for domain-name holder, technical contact and administrative contact, as it is founded out in the procedural proceeding carried out by MSFD under URS Procedure 4.2 and URS Rules 2(a)(i).

The Examiner finds that the Complaint meets the requirement of the URS 1.2.6 (iii) as well.

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): 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: Molly

Surname: Li

Date: March 8, 2016