



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

**URS DISPUTE NO. 36126B44**

Determination DEFAULT

**I. PARTIES**

Complainant(s): Bolton Food S.p.A. (IT)  
Complainant's authorized representative: Simmons & Simmons LLP (DE)

Respondent(s): Redacted for Privacy, Privacy service provided by Withheld for Privacy ehf (IS)

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

Domain Name(s): BLOGSITE.XYZ, SIMMENTHAL.BLOGSITE.XYZ  
Registry Operator: Xyz LLC  
Registrar: Namecheap, Inc.

**III. PROCEDURAL HISTORY**

Complaint submitted: 2023-09-15 14:16  
Lock of the domain name(s): 2023-09-19 23:49  
Notice of Complaint: 2023-09-20 11:36  
Default Date: 2023-10-05 00:00  
Notice of Default: 2023-10-05 12:48  
Panel Appointed: 2023-10-05 12:50  
Default Determination issued: 2023-10-08 17:52

**IV. EXAMINER**

Examiner's Name: Rodolfo Carlos Rivas Rea

The Examiner certifies that he has acted independently and impartially and to the best of his knowledge has no known conflict in serving as the Examiner in this administrative proceeding.

**V. RELIEF SOUGHT**

The Complainant requests that the domain name(s) 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 Bolton Group, hereinafter the Complainant, is a global conglomerate which sells products under 60 renowned brands.

The “Simmenthal” brand owned by the Complainant (up until 10 October 2018 known as “Bolton Alimentari S.P.A.”) has been launched in Milan in 1923. The brand has been synonymous with canned meat in Italy for almost a century.

The Complainant holds numerous “Simmenthal” trademarks across the globe.

Most importantly, the Complainant holds the word mark “SIMMENTHAL”, which is protected in various countries as follows:

- Italy: 5 registered trademarks, e.g., registration No. 46538, registered on 18 November 1933
- France: registration No. 69313, registered on 10 April 1959
- Germany: registration No. 1182077, registered on 7 November 1991
- UK: registration No. 3477437, registered on 26 July 2007
- EU: registration No. 3477437, registered on 26 July 2007
- International: registration No 376659, registered on 7 April 1971 - protected in Benelux, Croatia, Egypt, France, Germany, Liechtenstein, Monaco, Montenegro, Portugal, Czech Republic, Romania, San Marino, Serbia, Slovakia, Slovenia, Spain.

The Complainant asserts that it has recently been subject to a large-scale cyber-attack and the attackers has threatened to publish the its company data.

In this context, the Complainant checked for newly registered domains that might be abusive and found the new subdomain <simmenthal.blogspot.xyz> and other domains. The Complainant believes that these domains have been registered by the attackers and are intended to be used in criminal activities (e.g., to disseminate exfiltrated information or to conduct phishing attacks on the Complainant’s employees and customers).

The Complainant also asserts that <blogspot.xyz> is not used to host any legitimate website on its own, but is only used to register subdomains.

In light of these special circumstances, the Complainant’s argues that not only <simmenthal.blogspot.xyz>, but also <blogspot.xyz> violates its trademark rights.

In absence of registration data available for <simmenthal.blogspot.xyz>, the Complainant filled in the Complaint form with the WhoIs information available for <blogspot.xyz>.

## **A. Identity or confusingly similarity**

The <simmenthal.blogspot.xyz> subdomain is confusingly similar to the Complaint’s trademarks.

The subdomain includes the word "simmenthal" which is identical to the SIMMENTHAL wordmarks held by the Complainant:

- The first part of the subdomain is identical to the “SIMMENTHAL” wordmarks.



- The TLD ".xyz" can be viewed as a standard registration requirement and as such should be disregarded under the confusing similarity test.
- The term "blogspot" is nondescript and does not significantly alter the overall impression that the user gets from the domain name; therefore this, too, should be disregarded for the similarity test.
- Further, the combination of "simmenthal" and "blogspot" represents an indirect violation by the disputed domain name <blogspot.xyz>. The name "blogspot" itself has no recognition value. It is used solely to try to avoid applicability of dispute resolution mechanisms such as URS.

## **B. No rights or legitimate interest of the registrant**

There is no indication that the registrants have any rights to or legitimate interests in using the "simmenthal" name:

- The Complainant does currently not know the identity of the registrants of the abusive domains.
- The Complainant has not authorized or granted a license to anyone outside of the Complainant that would allow someone to legitimately register a "simmenthal" subdomain.
- There is no company outside the Complainant that is commonly known by the "simmenthal" name.
- <blogspot.xyz> is not used to host any legitimate website on its own, but is only used to register subdomains (incidentally, "blogspot.xyz" has a "Trustscore" of 13/100 on Scamadviser.com, see <https://www.scamadviser.com/check-website/blogsite.xyz>).
- Consequently, the subdomain <simmenthal.blogspot.xyz> is only found by users because it contains the name simmenthal. Thus, <blogspot.xyz> itself, which only functions as a vehicle to register (apparently mostly questionable) subdomains, violates the Complainant's trademark rights.

## **C. Registered and used in bad faith**

The disputed domain name has been registered and is being used in bad faith.

This is especially true in light of the cyber-attack:

- Given the close temporal connection between the cyber-attack and the acquisition of the domain, it can be assumed that the domain has been registered for criminal purposes by the attackers, such as to disseminate stolen information or to conduct phishing attacks on the Complainant's employees and customers.
- Further, there is a severe risk that the registrant will use the domain to intentionally attract, for commercial gain, Internet users to their website by creating a likelihood of confusion with the Complainant's trademarks.

Even if the domain should not have been registered by the attackers, the registrant must be viewed as having acted in bad faith. Given the fact that the Simmenthal brand is very well known (over 1 million Google hits; the first few results pages all directly or indirectly referring to the Complainant), any registrant should have known that the Simmenthal name was protected.

That the subdomain <simmenthal.blogsite.xyz> does not seem to have been used so far, is irrelevant. Simmenthal is a very strong and well-known mark, and there are no indications whatsoever that the registrant will be able to put the domain to any use that is permissible or in good faith.

#### **B. Respondent:**

The Respondent did not submit a Response.

#### **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.

Before addressing the substance of the matter, the Examiner notes that the Complaint refers to two separate domain names as the disputed domains, namely, <BLOGSITE.XYZ> and <SIMMENTHAL.BLOGSITE.XYZ>. However, the Examiner notes that <SIMMENTHAL.BLOGSITE.XYZ> is not separate domain name, as such; it is a subdomain of the <BLOGSITE.XYZ> domain name.

The Examiner notes that there is little in terms of previous Determinations dealing with similar matters, therefore the Examiner must carefully consider this matter referring to analogous UDRP matters when persuasive and applicable. The Panel has found the following cases informative in this regard: WIPO Case D2011-1907 EFG Bank European Financial Group SA v. Domain Consults and WIPO Case No. D2022-4590 Novomatic AG v. DomainClip Domains Inc.

The Examiner notes that no evidence has been provided that the subdomain <SIMMENTHAL.BLOGSITE.XYZ> is registered with a registrar via an applicable registration agreement which inter alia incorporates the URS as an appropriate administrative dispute resolution mechanism. The Examiner is not able to consider said subdomain as part of this Determination, since doing so would be extending the applicability of the URS beyond its intended mandate.

Therefore, the Examiner will only consider as subject of this Determination and as subject of it, the disputed domain name <BLOGSITE.XYZ>.

#### **D. Findings of fact:**

The Complainant holds the word mark “SIMMENTHAL”, which is protected in various countries as follows:

- Italy: 5 registered trademarks, e.g. registration No. 46538, registered on 18 November 1933.
- France: registration No. 69313, registered on 10 April 1959.
- Germany: registration No. 1182077, registered on 7 November 1991.
- UK: registration No. 3477437, registered on 26 July 2007.
- EU: registration No. 3477437, registered on 26 July 2007.
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## **E. Reasoning:**

### **1. The domain name(s) is(are) identical or confusingly similar to a word mark**

The Complainant has proven through the evidence on record that it owns various trademark registrations for “SIMMENTHAL” since at least 1933.

Having established this, the Examiner now turns to the analysis of the existence or not of confusing similarity between the above-mentioned trademarks and the disputed domain name. In this regard, the Complainant’s arguments focus largely on the subdomain <SIMMENTHAL.BLOGSITE.XYZ>, but as noted by the Examiner, the subdomain falls outside of the scope of the URS. In this regard, considering the disputed domain name, namely <BLOGSITE.XYZ>, the Panel notes that the test under the first element requires a relatively straightforward comparison between the complainant’s trademark and the disputed domain name, as per the analogous UDRP and the persuasive body of previous findings contained under paragraph 1.7 of WIPO 3.0 Overview.

In that sense, “this test typically involves a side-by-side comparison of the domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name” (paragraph 1.7 of WIPO 3.0 Overview).

In doing this side-by-side comparison, the Examiner notes that the trademark “SIMMENTHAL” is not recognizable within the disputed domain name, namely <BLOGSITE.XYZ>.

Therefore, based on the above and the evidence on record, the Examiner finds that the requirements set forth under Paragraph 1.2.6 (i) of the URS Procedure have not been satisfied.

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

Based on the finding under the previous requirement, the Examiner need not come to a determination as to the second element set forth under Paragraph 1.2.6 (ii) of the URS Procedure.

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

Based on the finding under the first requirement, the Examiner need not come to a determination as to the third element set forth under Paragraph 1.2.6 (ii) of the URS Procedure.

### **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**

Not demonstrated

B. Complaint and remedy

Complaint: Rejects

Domain Name: <BLOGSITE.XYZ> Unlocks and returns to the full control of the Registrant

C. Abuse of proceedings

Finding of abuse of proceedings: Not finds

D. Publication

Publication: Publish the Determination

**SIGNATURE**

Name: Rodolfo Carlos

Surname: Rivas Rea

Date: 2023-10-08