



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

URS DISPUTE NO. 429EC571

Determination DEFAULT

I. PARTIES

Complainant: Maschinenfabrik Reinhausen GmbH, Regensburg, DE
Complainant's authorized representative(s): Kai Huble, Regensburg, DE

Respondent: Manuel Moya, Dorsten, DE

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

Domain Name(s): reinhausen.international
Registry Operator: Wild Way, LLC (Donuts Inc.)
Registrar: Cronon AG

III. PROCEDURAL HISTORY

Complaint submitted: 2016-06-07 07:26
Lock of the domain name(s): 2016-06-09 23:33
Notice of Complaint: 2016-06-10 14:32, received on 2016-06-15 10:38
Default Date: 2016-06-30 00:00
Default notice: 2016-07-01 17:59

IV. EXAMINER

Examiner's Name: Tobias Malte Müller

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 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:

Complainant asserts to be the registered owner of several trademarks protected amongst others in the EU, USA and Germany for the word mark “Reinhausen”, trademarks which are identical to the disputed domain name. It further asserts that its trademarks are used amongst others for maintenance and repair of electric transformers and submits evidence thereof.

It further results from the evidence the Complainant submitted that the disputed domain name does not lead to any website displaying true content.

Finally, it results from the Complainant’s undisputed allegations and the evidence provided that the Respondent registered further 231 domain names under the “.international” new generic TLD containing well-known international trademarks such as “adidas.international”, “armani.international”, “dailymirror.international”, “daimler-benz.international”, “generalelectrics.international”, “generalmotors.international”, etc.

The Complainant therefore concludes that the Respondent has registered the disputed domain name (as well as the other indicated domain names) primarily for the purpose of selling or renting it to the respective trademark owners.

B. Respondent:

The Respondent did not reply to the Complainant’s contentions and is therefore in default.

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.

Paragraph 9(d) of the URS Rules provides that “*in absence of a Response, the language of the Determination shall be English*”. Therefore, this Determination is issued in English language.

D. Findings of fact:

The Disputed Domain Name <reinhausen.international> was registered on February 2, 2016. The disputed domain name resolves to a website displaying a message by the provider STRATO in several languages amongst others in English language which reads as follows: “*the website is currently not available. Please try again later*”. Thank you”.

The Complainant has demonstrated being the registered owner of several trademarks consisting in the word mark “Reinhausen” and registered well before the disputed domain name has been registered.

E. Reasoning:

According to Paragraph 13 of the URS Rules, the Examiner shall make a Determination of a Complaint in accordance with the URS Procedure, the URS Rules and any rules and principles of law that it deems applicable.

The Respondent did not reply to the Complainant’s contentions. However, a Respondent’s default does not automatically result in a decision in favor of the Complainant. Paragraph 12



of the URS Rules requires the Examiner to review the Complaint for a *prima facie* case, including complete and appropriate evidence.

For the Complainant to succeed, it must establish that each of the three following conditions under Paragraph 1.2.6 of the URS Procedure are satisfied:

- That the registered domain name is identical or confusingly similar to a word mark;
- That the Registrant has no legitimate right or interest to the domain name;
- That the domain was registered and is being used in bad faith.

At the same time, in accordance with Paragraph 12(f) of the URS Rules, “*if a Party, in the absence of exceptional circumstances, does not comply with any provision of, or requirement under, these Rules, the URS Procedure or the Provider’s Supplemental Rules, the Examiner shall draw such inferences therefrom as it considers appropriate*”.

The Examiner finds that in this case there are no such exceptional circumstances. Consequently, failure on the part of the Respondent to file a response to the Complaint permits an inference that the Complainant’s reasonable allegations are true. It may also permit the Examiner to infer that the Respondent does not deny the facts that the Complainant asserted.

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

It results from the evidence provided that the Complainant is the registered owner, amongst others, of the following trademarks consisting of the verbal element “Reinhausen”:

- National German trademark No. 30657159, filed on September 9, 2006, registered on November 30, 2006, covering goods and services in classes 9, 37, 42;
- International trademark No. 935929, based on and claiming priority of the aforementioned national German trademark, covering goods and services in classes 9, 37, 42 and designating amongst others the EU and USA.

The second level domain of the disputed domain name consists of the term “Reinhausen” and is therefore identical to the Complainant’s word mark. In particular, the new generic TLD “.international” does not affect the identity between the disputed domain name and the Complainant’s trademarks. It will rather be understood by the relevant public as a descriptive term underlining the international character of the holder and/or the content (intended to be) displayed under the disputed domain name.

In these circumstances, the Examiner finds that the requirements of Paragraph 1.2.6(i) of the URS Procedure have been satisfied.

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

The Respondent did not reply to the Complaint and therefore failed to invoke any of the circumstances which could demonstrate 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 the Respondent does not have any rights or legitimate interests. The Examiner understands this assertion in particular as confirmation the Complainant has not authorized the Respondent nor granted him a license or permission to register the disputed domain name or use its trademarks.

In addition, 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 any right or legitimate interest.

Under these circumstances and in the absence of any 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 that the requirements of Paragraph 1.2.6 (ii) of the URS procedure have been satisfied.

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

Finally, the Complainant must establish that the disputed domain name has been registered and is being used in bad faith. URS Procedure 1.2.6.3 identifies a non-exclusive list of certain circumstances that the Examiners could consider as constituting bad faith.

In the case at issue, the disputed domain name does not resolve to any active website. The Examiner first notes that passive holding does not preclude a finding of bad faith. Consequently, the Examiner must examine all the circumstances of the case to determine whether the Respondent is acting in bad faith.

In particular, it is the view of this Examiner that in the present case there are circumstances indicating that the domain name was registered or acquired primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the Complainant who is the owner of the trademark or to a competitor of that complainant, for valuable consideration in excess of the Respondent's out-of-pocket costs directly related to the domain name. According to URS Procedure 5.9 the Examiner considered in particular that trading in domain name for profit, and holding a large portfolio of domain names, are themselves not *indicia* of a bad faith under the URS. In the case at hand, however, the Examiner considers the Respondent's conduct as being abusive since it has been proved that the Respondent registered over 200 further domain names under the new generic TLD ".international" many of them including well-known trademarks such as, "adidas.international", "armani.international", "dailymirror.international", "daimler-benz.international", "generalelectrics.international", "generalmotors.international".

In these circumstances, the Examiner finds that also the requirements of Paragraph 1.2.6 (iii) of the URS Procedure have been satisfied.

4. Abusive Complaint

The Examiner finds that the Complaint was neither abusive nor did it contain deliberate 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: Tobias Malte

Surname: Müller

Date: July 5, 2016