



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

URS DISPUTE NO. 433E1B1D

Determination DEFAULT

I. PARTIES

Complainant(s): Monkey IP Limited (UK)
Complainant(s)'s authorized representative(s): Red Points Solutions, S.L. (SP)

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

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

Domain Name(s): SIKROPA.ONLINE
Registry Operator: DotOnline Inc.
Registrar: Namecheap, Inc.

III. PROCEDURAL HISTORY

Complaint submitted: 2021-01-21 13:54
Lock of the domain name(s): 2021-01-21 16:12
Notice of Complaint: 2021-01-21 16:23
Default Date: 2021-02-05 00:00
Notice of Default: 2021-02-05 09:30
Panel Appointed: 2021-02-05 09:32
Default Determination issued: 2021-02-06 13:12

IV. EXAMINER

Examiner's Name: Alejandro Touriño

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:

The Complainant declares that it is a notorious clothing company, which is the holder of the following trademark registrations:

- European trademark no. 012035391, "SIKSILK" filed on August 1, 2013 for products and services in class 25;
- European trademark no. 012148987 figurative trademark "SS" filed on September 17, 2013 for products and services in classes 3, 5, 8, 9, 12, 14, 16, 18, 24, 25, 26, 28 and 35.

The disputed domain name <sikropa.online> was acquired by the Respondent on 2020-12-06.

The Complainant contends that SIKSILK' clothing brand was founded in 2012 and became worldwide famous in 2015 thanks to its use by celebrities. In addition, the Complainant asserts that the trademark "siksilk" consists of two terms: "sik" (which identifies the brand) and "silk" (which identifies the type of cloth used). The disputed domain name <sikropa.online> consists of two terms: "sik" to identify the brand and the term "ropa", which means "clothing" in Spanish. Additionally, the disputed domain name hosts a website whose content reproduces the official website of the Complainant including its trademark and copyrighted images without previous authorization. Consequently, the Complainant asserts that the domain name is confusingly similar to the registered trademarks.

The Complainant also claims that the Respondent has never been authorized nor to use the Complainant's trademark neither to register the domain name. In addition, the Respondent is not commonly known by the disputed domain name. Therefore, the Respondent has no legitimate right nor interests in the disputed domain name.

Finally, the Complainant asserts that the disputed domain name redirects to an ecommerce website dedicated to selling SIKSILK clothing, reproducing the Complainant's look and feel, giving the impression to be an official store of the Complainant. Thus, the only purpose of the Respondent is to create likelihood of confusion to mislead and attract consumers for commercial gain. In fact, the Respondent follows a bad-faith pattern of conduct of multi-trademark abusive registrations by owning, at least, the following domains: <sikropa.online>, <martinsuk.online>, <offertaborse.online> and <sechzapatos.online>.

B. Respondent:

The Respondent has not replied 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.

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 domain name <sikropa.online> was registered on 2020-12-06. The domain name in question resolves to a website reproducing Complainant's trademarks and products.



The Complainant has trademark rights in the trademark SIKSILK before the creation of the domain name by the Respondent.

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 favour of the Complainant. Indeed, in spite of Respondent's default, URS Procedure requires the Complainant to succeed to 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.

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

The Complainant is the owner of, among others, the European trademark no. 012035391, SIKSILK filed on August 1, 2013.

The Complainant has referred to the notoriety of the trademark SIKSILK as an evidence of the extended and well-known use of the trademark in commerce.

The domain name is confusingly similar to the Complainant's trademarks. The relevant part of the trademark "SIK" in addition to the new gTLD <.online> and the word "ropa", which refers to the Complainant's main products, are likely to create a confusion to an internet average user.

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

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 the Respondent 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.

Furthermore, the Complainant has proved that the domain name <sikropa.online> resolves to an e-commerce website reproducing Complainant's trademarks and look and feel, also offering the Complainant's products, with no authorization or disclaimer stating that it is not the Complainant's official website.

In 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 that the requirements of Paragraph 1.2.6 (ii) of the URS Procedure have been satisfied.

3. The domain name was registered and is being used in bad faith

URS Procedure 1.2.6.3 identifies a non-exclusive list of circumstances that Examiner could consider as constituting bad faith.

Among them, it seems clear in the Examiner's view that in the case at hand the Respondent had knowledge of the Complainant's trademarks when registering the disputed domain name. Indeed, the disputed domain name incorporates the fantasy part ("sik") of the Complainant's SIKSILK trademark, with the mere addition of the word "ropa" and the gTLD <.online>, referred to the Complainant's main activity.

In addition, the domain name redirects the users to a website dedicated to selling SIKSILK clothing, reproducing the Complainant's look and feel, giving the impression to be an official store of the Complainant. Thus, the only purpose of the Respondent must be to create likelihood of confusion to mislead and attract consumers for commercial gain, which is indicative of bad faith use pursuant to the URS Procedure.

In the absence of any explanation from the Complainant, the Examiner finds more likely than not that the Respondent intentionally registered a domain name confusingly similar to the Complainant's trademarks to benefit from the good will associated with said trademarks.

In these circumstances, the Examiner finds that 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 contained material falsehoods.

VIII. DETERMINATION

A. Demonstration of URS elements

Demonstrated

B. Complaint and remedy

Complaint: Accepts

Domain Name: SIKROPA.ONLINE 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: Alejandro
Surname: Touriño
Date: 2021-02-06