



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

**URS DISPUTE NO. 48077E49**

Determination DEFAULT

**I. PARTIES**

Complainant: Pegase (FR)

Complainant's authorized representative: MIIP - MADE IN IP (FR)

Respondent: Privacy Guardian, PrivacyGuardian.org LLC (US)

(collectively, 'the Parties')

**II. THE DOMAIN NAME, REGISTRY OPERATOR AND REGISTRAR**

Domain Name: LAHALLESALES.SHOP ('the disputed domain name')

Registry Operator: GMO Registry, Inc.

Registrar: NameSilo, LLC

**III. PROCEDURAL HISTORY**

Complaint submitted: 2023-11-22 12:40

Lock of the domain name(s): 2023-11-27 11:21

Notice of Complaint: 2023-11-27 12:29

Default Date: 2023-12-12 00:00

Notice of Default: 2023-12-12 10:37

Panel Appointed: 2023-12-12 10:38

Default Determination issued: 2023-12-14 17:02

**IV. EXAMINER**

Examiner's Name: Gustavo Moser

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 disputed 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. Disputed domain name**

The disputed domain name <lalallesales.shop> was registered on 13 November 2023 and, at the time of writing, it resolves to an active website, the particulars of which are discussed further below ('the Respondent's website').

### **B. Complainant:**

#### **B.1 Trade mark standing**

For the purposes of this URS dispute, the Complainant relies on the following registered trade marks, amongst others:

- International trade mark registration no. 486315, registered on 6 July 1984, for the figurative mark LA HALLE AUX VETEMENTS, in class 25 of the Nice Classification;
- International trade mark registration no. 1213360, registered on 10 April 2014, for the figurative mark LA HALLE Mode, Chaussures & Maroquinerie, in classes 18, 25, and 35 of the Nice Classification; and
- International trade mark registration no. 1254519, registered on 19 March 2015, for the figurative mark LA HALLE Fashion, Shoes & Bags, in classes 18, 25, and 35 of the Nice Classification

(collectively or individually, 'the Complainant's trade mark').

In addition to the above trade marks, the Complainant also owns trade mark rights in other fashion brands, most notably LH, LIBERTO, CREEKS and MOSQUITOS.

#### **B.2 Background History**

The Complainant is a French company operating in the fashion industry. It is the holder of renowned brand of women, men and children fashion.

The Complainant seeks to obtain the suspension of the disputed domain name on the grounds advanced in section B.3 below.

#### **B.3 URS grounds**

##### **i. The disputed domain name is identical or confusingly similar to a word mark**

The Complainant submits that the disputed domain name incorporates the Complainant's trade mark in its entirety; that the descriptive term 'sales' in the disputed domain name string does not add any distinctiveness and, instead, is all the more apt to induce confusion among Internet users to the extent that it may misleadingly evoke the Complainant's offering of products at discounted prices through the Respondent's website.

##### **ii. Respondent has no rights or legitimate interests to the disputed domain name**

The Complainant submits that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent has not been authorised by the Complainant to use the Complainant's trade mark or to register any domain name bearing the Complainant's trade mark. Furthermore, there is no legal or business relationship between the Parties.



### **iii. The disputed domain name was registered and is being used in bad faith**

The Complainant submits that the disputed domain name was registered and is being used in connection with a fraudulent website which reproduces the Complainant's own website, for instance, trade mark, logo, pictures, and 'About us' section. Furthermore, the Respondent's website claims to offer not only LA HALLE goods, but also LH, LIBERTO, CREEKS and MOSQUITOS items at reduced prices.

#### **C. Respondent:**

The Respondent has failed to serve a Response in this URS administrative proceeding, the result of which being that the Complainant's submissions are uncontested.

#### **D. 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.

#### **E. Findings of fact:**

The disputed domain name was registered on 13 November 2023.

The disputed domain name resolves to an active website.

The Complainant has, to the satisfaction of the Examiner, adduced proof that the Complainant has trade mark rights in 'LA HALLE' formative trade marks in which 'la halle' is the most distinctive element.

#### **F. Reasoning:**

Pursuant 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 rule and principles of law that the Examiner deems applicable.

Paragraph 1.2.6 of the URS Procedure sets out the grounds which the Complainant is required to establish for the granting of the relief sought (suspension of the disputed domain name):

1. The disputed domain name is identical or confusingly similar to a word mark;
2. The Respondent has no rights or legitimate interests to the disputed domain name; and
3. The disputed domain name was registered and is being used in bad faith.

It is therefore incumbent on the Complainant the onus of meeting the above threshold. The evidentiary standard under the URS procedure is clear and convincing, which lays down the foundations for examiners to determine each of the three URS Procedure grounds.

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

The URS test under this ground provides for a juxtaposing approach, according to which the textual, auditory, and visual components of the disputed domain name and the Complainant's trade mark are to be compared side by side.

Nevertheless, to achieve success, the Complainant must first of all provide evidence that it owns rights in a trade mark, following which the Examiner shall assess the degree of similarity between the trade mark and the disputed domain name.

The Panel is satisfied that the Complainant owns trade mark rights in 'LA HALLE' formative trade marks, in which 'la halle' is the most distinctive element, since at least 1984 as supported by its submission into evidence of screenshots from the websites of the trade mark offices referencing the particulars of the Complainant's trade mark registrations.

Having established the Complainant's trade mark standing for the purpose of this URS administrative proceeding, it rests with the Panel the juxtaposing exercise between the Complainant's trade mark and the disputed domain name.

The disputed domain name <lahallesales.shop> wholly incorporates the Complainant's trade mark. The descriptive term 'sales' in the disputed domain name string is rather immaterial to produce any distinctive character and, therefore, insufficient overall to dispel the confusion with the Complainant's trade mark.

Accordingly, the Examiner finds that the disputed domain name is confusingly similar to the Complainant's trade mark, the result of which being that the Complainant has succeeded under paragraph 1.2.6.1 of the URS Procedure.

### **2. Respondent has no rights or legitimate interests to the disputed domain name**

The second ground of the URS Procedure provides that the Respondent shall demonstrate that it has rights or legitimate interests in the dispute domain name. It therefore falls on the Complainant the burden to rebut any such allegations.

Notwithstanding the above, the Respondent did not submit a Response in this URS dispute. Therefore, the Examiner will proceed to determine the dispute on the basis of the available evidence.

The Examiner notes that the Complainant denies any affiliation and/or association with, or authorisation for, the Respondent of any nature. Moreover, the Complainant further argues that the Respondent is not known by the disputed domain name, and there is no evidence to the contrary on the record.

The Complainant has provided robust evidence to support its contentions, the contents of which remained unchallenged by the Respondent.

For the foregoing reasons, and noting that the Respondent has not provided a Response to refute any of the allegations and evidence adduced by the Complainant in this URS dispute, the Examiner finds that the Complainant has made a *prima facie* showing of the Respondent's lack of rights or legitimate interests in the disputed domain name under paragraph 1.2.6.2 of the URS Procedure.

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



In order to meet the third requirement under the URS Procedure, the Complainant must provide evidence that the disputed domain name was registered and is being used in bad faith. The URS Procedure, in paragraph 1.2.6.3, enumerates non-exhaustive circumstances which would evidence bad faith registration and use of the disputed domain name by the Respondent, as follows:

- a. Circumstances indicating that the disputed domain name was registered or acquired primarily for the purpose of selling, renting, or otherwise transferring the disputed domain name registration to the Complainant who is the owner of the trademark or service mark or to a competitor of that Complainant, for valuable consideration in excess of the Respondent's out-of-pocket costs directly related to the disputed domain name;
- b. The disputed domain name was registered in order to prevent the trademark holder or service mark from reflecting the mark in a corresponding domain name, provided that the Respondent has engaged in a pattern of such conduct;
- c. The disputed domain name was registered primarily for the purpose of disrupting the business of a competitor; and
- d. By using the domain name, the Respondent intentionally attempted to attract for commercial gain, Internet users to the Respondent's website or other on-line location, by creating a likelihood of confusion with the Complainant's trade mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website or location or of a product or service on the Respondent's website or location.

The Examiner has looked at the overall composite picture of events and finds it, collectively, to be sufficient to give rise to a finding of bad faith registration and use of the disputed domain name by the Respondent, for the following reasons:

- The disputed domain name <lahallesales.shop> wholly incorporates 'LA HALLE' formative trade marks in which 'la halle' is the most distinctive element;
- There is no credible explanation for the Respondent's choice of the disputed domain name, which was registered in 2023. The Complainant has been in operation for many years before, including through the use of the domain name <lahalle.com>, which was registered in 1997. The Examiner does not sympathise with the Respondent's position, and finds that the Respondent was likely well aware of the Complainant given the references to the Complainant and, most compellingly, the content of the Respondent's website which resembles the Complainant's (as discussed further below);
- The Respondent has not provided a Response within the time prescribed under the URS Rules, or at all, and has thus failed to offer any explanation or justification for the matters raised by the Complainant in the context of this URS dispute. The Examiner is empowered to draw adverse inferences by such failure (URS Rules paragraph 12);
- There is nothing on the record suggesting that the Respondent is affiliated or otherwise connected with the Complainant, and the Complainant in any event firmly denies any association;

- The Respondent's website appears to commercialise LA HALLE products in an unauthorised manner, and absent any disclosure as to the relationship between the Respondent and the Complainant. The Examiner finds that the Respondent has attempted to suggest an affiliation with, or a connection to, or an endorsement of the Complainant or, rather likely, to impersonate the Complainants through the use of the Complainant's trade mark on the Respondent's website. The Respondent's behaviour would consequently fall in the realm of circumstance d. of paragraph 1.2.6.3 of the URS Procedure;
- The implausibility of any good faith use to which the disputed domain name may be put; and
- Taken the above together, the overall unlikelihood of any good faith use of the disputed domain name.

In view of the above, the Examiner finds that the Complainants have met the requirement under paragraph 1.2.6.3 of the URS Procedure.

#### **4. Abusive Complaint**

For the avoidance of doubt, the Examiner finds that the Complaint was not brought by the Complainant abusively nor does the Complaint contain any deliberate material falsehoods.

### **VIII. DETERMINATION**

#### A. Demonstration of URS elements

Demonstrated

#### B. Complaint and remedy

Complaint: Accepts

Domain Name: LAHALLESALES.SHOP 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: Gustavo  
Surname: Moser  
Date: 2023-12-14