



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

URS DISPUTE NO. 4D1FB8CA

Determination DEFAULT

I. PARTIES

Complainant(s): C.C.V. BEUMANOIR (FR)
Complainant's authorized representative: MIIP - MADE IN IP (FR)

Respondent(s): Dynadot Privacy Service, Super Privacy Service LTD c/o Dynadot (US)

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

Domain Name: MORGAN-OUTLET.SHOP
Registry Operator: GMO Registry, Inc.
Registrar: Dynadot Inc

III. PROCEDURAL HISTORY

Complaint submitted: 2024-04-19 12:40
Lock of the domain name(s): 2024-04-22 20:21
Notice of Complaint: 2024-04-22 21:48
Default Date: 2024-05-07 00:00
Notice of Default: 2024-05-08 09:45
Panel Appointed: 2024-05-08 09:50
Default Determination issued: 2024-05-08 12:33

IV. EXAMINER

Examiner's Name: Bart Van Besien

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 asserts the followings: the Complainant is a French company, established in 1993, and active in the fashion industry. It is the owner of the brand MORGAN, a brand of women fashion created in the 1990s. It has trademark rights in the term MORGAN, as detailed below under the heading “Findings of fact”. The Complainant claims that its MORGAN trademark is well-known in Europe. The Complainant also states that its MORGAN's fashion products are sold in 166 shops in France and in 206 shops globally. Finally, the Complainant claims to be the owner of the domain name <morgandeto.fr>, registered since 2006.

B. Respondent:

The Respondent did not file an administrative compliant (or any) Response and, thus, did not refute the claims of the Complainant.

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.

D. Findings of fact:

The disputed domain name was registered on 21 February 2024.

The Complainant has proved that it is the owner of the following registered trademarks (hereafter individually or collectively referred to as the “MORGAN Trademark” or the “MORGAN Trademarks”):

- French word trademark MORGAN, n° 1441890, filed on 31 July 1986 in class 25 (renewed);
- French combined word-figurative trademark MORGAN, n° 4049265, filed on 22 November 2013 in classes 3, 9, 14, 16, 18, 25, 35 (renewed);
- European Union word trademark MORGAN, n°014908982, filed on 14 December 2015 in classes 9, 14, 18, 25.

E. Reasoning:

Even though the Respondent has defaulted, URS Procedure 1.2.6 requires the Complainant to make a *prima facie* case, proven by clear and convincing evidence, for each of the following three elements to obtain an order that a domain name should be suspended:

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

URS 1.2.6.1 (i) covers the domain name at issue. The Complainant has submitted evidence that it holds at least two registered *word* trademarks, namely:

- French word trademark MORGAN, n° 1441890, filed on 31 July 1986 in class 25;
- European Union word trademark MORGAN, n°014908982, filed on 14 December 2015 in classes 9, 14, 18, 25.

The Complainant has also submitted evidence of actual use of these MORGAN Trademarks.



The applicable Top-Level Domain (“TLD”) “.shop” is viewed as a standard registration requirement and is as such disregarded under the first element confusing similarity test.

The disputed domain name consists of the Complainant’s MORGAN Trademark (word element “MORGAN”, taken in its entirety) with the addition of the generic and descriptive term “outlet”. This term does not neutralize the confusing similarity between the Complainant’s MORGAN Trademark and the disputed domain name. Rather, it enhances the confusing similarity since the term “outlet” is a term generally used in the fashion and clothing industry.

The Examiner finds that the disputed domain name is confusingly similar to the MORGAN Trademarks (in particular, the word trademarks) of the Complainant and, therefore, the Complainant has met the first requirement of paragraph 1.2.6 of the URS Procedure.

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

The Complainant claims that the Respondent has no rights or legitimate interest in respect of the disputed domain name. According to the Complainant, the Respondent has not been authorized by the Complainant to use the MORGAN Trademark or to register any domain name incorporating the MORGAN Trademark; there is no legal or business relationships between the Complainant and the Respondent; the Respondent has no prior rights such as trademarks or legitimate interests in the disputed domain name as he registered the disputed domain name after the Complainant had registered its MORGAN Trademarks and domain names; the disputed domain name is used in connection with a fraudulent website which reproduces the Complainant's official website (trademark, logo, pictures, etc.,).

The Respondent has not submitted a Response to the Complaint and, thus, has failed to invoke any of the circumstances, which could demonstrate any rights or legitimate interests in the disputed domain name.

The Examiner notes that there is no evidence of any rights or legitimate interests of the Respondent in the disputed domain name. There is no evidence of any similar or identical trademarks owned by the Respondent. There is no indication of any authorization to use the Complainant’s MORGAN Trademarks. There is no indication that the Respondent is otherwise related to the Complainant’s business. There is no evidence of the Respondent has been commonly known, as an individual, business or other organization, as “MORGAN” or “MORGAN-outlet”.

For all of the above reasons, the Examiner determines that, the Complainant has satisfied the second requirement of paragraph 1.2.6 of the URS Procedure and the Respondent does not have legitimate rights or interests to the domain name.

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

The Complainant claims that the disputed domain name is used in bad faith, since the Respondent has intentionally intended to attract consumers by using the MORGAN Trademark in the disputed domain name. According to the Complainant, the Respondent reproduces the general appearance of the Complainant's official website and claims to offer MORGAN items at bargain prices in order to attract consumers and carry out scams. The Complainant also contends that, on the home page of the website available via the disputed domain name, the

Respondent tries to impersonate the Complainant by presenting himself as the official MORGAN boutique shop and by reproducing the story of the MORGAN brand.

The Examiner notes that, in general terms, there are no circumstances known to the Examiner that refute the Complainant's claims of bad faith registration or bad faith use.

From the evidence submitted by the Complainant, it is clear that the Respondent is using the registered MORGAN Trademarks (including the combined figurative-word trademark of the Complainant) on its website (i.e., the website available through the disputed domain name), together with various texts and pictures used by the Complainant on its official website.

The Examiner finds that the Respondent must have had constructive knowledge of the Complainant's registered MORGAN Trademarks at the time of registration and use of the disputed domain name confusingly similar to the Complainant's trademarks. This knowledge indicates the Respondent's bad faith use and registration. The Examiner further finds that the use of the Complainant's MORGAN logo (combined word-figurative trademark) on the website available through the disputed domain name, combined with the use of the disputed domain name for selling goods that compete with the goods offered for sale by the Complainant, is further evidence of the Respondent's bad faith use and registration of the disputed domain name. The Examiner points to the fact that the Complainant has submitted a screenshot of the website of the Respondent, proving that the Respondent is indeed selling goods that are competing with the Complainant's goods (or that are at least covered by the Complainant's trademark registrations, in particular clothing items).

The Examiner concludes that the Respondent has intentionally attempted to attract for commercial gain, Internet users to its website, by creating a likelihood of confusion with the Complainant's registered MORGAN Trademarks as to the source, sponsorship, affiliation, or endorsement of the Respondent's website or of the products offered for sale on the Respondent's website. This is evidence of bad faith use and registration, in accordance with the paragraph 1.2.6.3 of the URS Procedure.

4. Abusive Complaint

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: MORGAN-OUTLET.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: Bart

Surname: Van Besien

Date: 2024-05-08