



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

**URS DISPUTE NO. 604CECE9**

Determination DEFAULT

**I. PARTIES**

Complainant(s): Cache Cache (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: CACHEOK.SHOP

Registry Operator: GMO Registry, Inc.

Registrar: Dynadot Inc.

Domain Name: CACHEOUTLET.SHOP

Registry Operator: GMO Registry, Inc.

Registrar: Dynadot Inc.

**III. PROCEDURAL HISTORY**

Complaint submitted: 2024-03-19 15:37

Lock of the domain name(s): 2024-03-21 11:50

Notice of Complaint: 2024-03-26 18:23

Default Date: 2024-04-10 00:00

Notice of Default: 2024-04-10 09:06

Panel Appointed: 2024-04-10 09:09

Default Determination issued: 2024-04-15 11:09

**IV. EXAMINER**

Examiner's Name: Lars Karnøe

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, is a french Company, part of GROUPE BEAUMANOIR and the exclusive proprietor of the CACHE CACHE trademark, a renowned brand of women fashion. The Complainant's fashion products are sold in 450 shops in France and 933 globally.

The Complainant contends that:

1. The contested domain names reproduce part of the trademark CACHE CACHE of the Complainant in a leading position in association with a descriptive word in relation with fashion/sales (OUTLET) or a typo (addition of "OK"). The additional elements OUTLET, which does not add any distinctiveness as it designates a type of store where manufacturers sell products directly to consumers at discounted prices and the typo (addition of letters "ok"), which also does not add any distinctiveness, have no other purpose than misleading the consumers and make them believe that these domain names are owned by the Complainant or, are affiliated with the latter.
2. The Complainant has no rights or legitimate interest in respect of the domain names. Indeed, the Respondent has not been authorized by the Complainant to use the CACHE CACHE trademark or to register any domain name incorporating the CACHE CACHE 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 names after the Complainant had registered his trademarks and domain name. In particular, the domain names are used in connection with fraudulent websites that reproduce the Complainant's website (trademark, logo, pictures, about us section, etc.,).
3. The domain names are registered and used in bad faith, since the Respondent has intentionally intended to attract consumers by using the CACHE CACHE trademark in the domain names. The Respondent reproduces the general appearance of the Complainant's official website and claims to offer CACHE CACHE goods at bargain prices in order to attract the consumer and carry out scams. The Respondent's presents itself as the Complainant in the "about us" section of these websites, but also as an official clearance store of the trademark CACHE CACHE in the main page. The WIPO has constantly held that such a use is "emblematic of bad faith use of the disputed domain name" (see D2021-3719 WIPO Jan. 19, 2022). Moreover, when registering the contested domain names, the Respondent employed a privacy service in order to hide its identity. The consumers can also be misled by the mention "trusted store" on the bottom right of these websites.

### **B. Respondent:**

No response has been received within the deadline.

### **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.



The Examiner finds that the Complainant has adequately made it most likely that the Disputed Domain Names are both registered by the same Respondent, based on the temporal proximity of the registrations, the service provider and place of the registrations and the highly similar contents on the websites of the Disputed Domain Names.

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

The Complainant is owner of the following trademark registrations worldwide:

- European Union trademark CACHE CACHE (verbal) no 017449646, filed on 8 November 2017 in classes 3, 9, 14, 16, 18, 24, 25, 35, 41,42 and in particular for Handbags (18) and Clothing for men, women and children, including underclothing and sportswear (25);
- French trademark CACHE CACHE (with device) no. 3412484, filed on 27 February 2006 in classes 14, 18, 20, 24, 25 and in particular for Handbags (18) and Clothing, footwear and hats;
- International trademark CACHE CACHE (verbal) no. 1103397, filed on 22 April 2011 notably in classes 18 (Handbags) and 25 (Clothing, clothing for men, clothing for women, clothing for children), and covering EU, Germany, Switzerland, Morocco, Egypt, Ghana, Monaco, Norway, Oman.

These trademarks are currently in use, notably through the Complainant's official website <https://www.cache-cache.fr/>.

The Complainant is also the owner of the domain name cache-cache.fr.

The Disputed Domain Names were registered on 8 November 2023 and 13 November 2023 respectively.

#### **E. Reasoning:**

Despite the Respondent has defaulted, URS Procedure 1.2.6, requires 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.

[URS 1.2.6.1] The registered domain name(s) is/are identical or confusingly similar to a word mark:

- (i) for which the Complainant holds a valid national or regional registration and that is in current use; or
- (ii) that has been validated through court proceedings; or
- (iii) that is specifically protected by a statute or treaty in effect at the time the URS complaint is filed.

[URS 1.2.6.2] Registrant has no legitimate right or interest to the domain name.

[URS 1.2.6.3.] The domain was registered and is being used in bad faith.

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

To satisfy URS 1.2.6.1, a complainant needs to prove its rights in a word mark and that the domain name(s) is/are identical or confusingly similar to the word mark.

In the present case, the Examiner finds that the Complainant is a known fashion manufacturer who owns trademark registrations for CACHE CACHE in different jurisdictions.

The Complainant claims that the Disputed Domain Names are confusingly similar to the CACHE CACHE trademark. The Examiner accepts that the additional generic and descriptive terms “outlet” and “ok” do not alter the underlying trademark or negate the confusing similarity and they do not sufficiently differentiate the Disputed Domain Names from the Complainant’s trademark – neither does shortening the trademark from CACHE CACHE to CACHE.

In addition, the Examiner also finds that the “.shop” generic top-level domain (“gTLD”) does not prevent the finding of confusing similarity under the first element.

For the foregoing reasons, the Examiner finds the Complainant has satisfied URS 1.2.6.1 as the Disputed Domain Names are confusingly similar to the Complainant’s registered trademark.

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

To satisfy URS 1.2.6.2, the Complainant must first make a prima facie case that the Respondent lacks rights and legitimate interests in the domain name(s), and the burden of proof then shifts to the Respondent to show it does have rights or legitimate interests.

The Complainant asserts that the Respondent has not been authorized by the Complainant to use the CACHE CACHE trademark or CACHE in the Disputed Domain Names or the content of the websites. The Respondent’s use is not a legitimate noncommercial or fair use, and is not in connection with a bona fide offering of goods or services.

The Examiner finds that the Complainant has met its burden of proof and established a prima facie case that the Respondent has no rights or legitimate interests in the Disputed Domain Names and the Respondent has not rebutted the assertion.

For the foregoing reasons, the Examiner finds the Complainant has satisfied URS 1.2.6.2 as the Respondent has no legitimate rights or interest to the domain names.

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

The Disputed Domain Names have been put into active use in connection with fraudulent websites that reproduce the Complainant's website (trademark, logo, pictures, about us section, etc.,).

Taken into account the totality of the facts and circumstances of the present dispute, the followings demonstrate bad faith on the Respondent’s side:

- (i) The degree of distinctiveness or reputation of the Complainant’s mark – the Complainant’s CACHE CACHE trademark is highly distinctive and widely used;
- (ii) The failure of the Respondent to submit a response or to provide any evidence of actual or contemplated good-faith use of the Disputed Domain Names;
- (iii) The implausibility of any good faith use to which the Disputed Domain Names may be put, taking into account the distinctiveness and wide spread use of the Complainant’s trademark, and
- (iv) The Respondent’s actual use of the Disputed Domain Names to reproduce a fraudulent version of the Complainant’s website.

The Disputed Domain Names are confusingly similar to a high degree to the Complainant’s trademark as the mere addition of the generic terms “outlet” and “ok” and the shortening of the



Complainant's trademark from CACHE CACHE to CACHE do not prevent a finding of confusing similarity. As confirmed by WIPO Overview 3.0 the mere registration of a domain name that is identical or confusingly similar to a famous or known trademark by an unaffiliated entity can by itself create a presumption of bad faith (par. 3.1.4).

From the evidence available in the present dispute, it clearly appears 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 trademark by incorporating Complainant's distinctive trademark into the Disputed Domain Name.

This conduct is considered by the URS as a demonstration of bad faith registration and use, under Paragraph 1.2.6.3 (d) of the URS Procedure.

Therefore, the Examiner finds that the requirements set forth under Paragraph 1.2.6.3. of the URS Procedure have been satisfied by the Complainant.

#### **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: Accepted

Domain Name: CACHEOK.SHOP

Suspends for the balance of the registration period

Domain Name: CACHEOUTLET.SHOP

Suspends for the balance of the registration period

#### C. Abuse of proceedings

Finding of abuse of proceedings: Not found

#### D. Publication

Publication: Publish the Determination

### **SIGNATURE**

Name: Lars

Surname: Karnøe

Date: 2024-04-15