



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

URS DISPUTE NO. 7AAFBC12

Determination DEFAULT

I. PARTIES

Complainant: Tencent Holdings Limited, KY
Complainant's authorized representative(s): CSC Digital Brand Services Group AB, Paddy Tam, SE

Respondent(s): Livon Biswas, IN

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

Domain Name(s): MIDASBUY.LIVE
Registry Operator: Dog Beach, LLC
Registrar(s): GoDaddy.com, LLC

III. PROCEDURAL HISTORY

Complaint submitted: 2020-06-30 10:49
Lock of the domain name(s): 2020-06-30 19:55
Notice of Complaint: 2020-06-30 22:15
Default Date: 2020-07-15 00:00
Notice of Default: 2020-07-15 15:25
Panel Appointed: 2020-07-15 15:34
Default Determination issued: 2020-07-17 02:48

IV. EXAMINER

Examiner's Name: Ankur Raheja

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 Chinese multinational conglomerate holding company founded in 1998 and is the world's largest video game company. It partly owns battle royale games such as PlayerUnknown's Battlegrounds (PUBG). MidasBuy is a top-up center for popular video games, music, videos and other forms of entertainment. It is mostly known for handling the in-game purchases for PUBG and PUBG Mobile. The platform provides users with a number of special offers and promotional activities, including Unknown Cash (UC) for users to make in-game purchases.

Complainant uses the domain name <midasbuy.com> to promote its services under the MIDASBUY brand. The domain name has been registered and continuously used since June 5, 2018. Complainant owns trademark registrations in Hong Kong for MIDASBUY:

- MIDASBUY (HK TM Reg. No. 305112053, registered on Nov. 13, 2019) for Class 35 and 36;
- MIDASBUY (HK TM Reg. No. 305119669, registered on Nov. 21, 2019) for Class 42.

The disputed domain name is an exact match of the word element in Complainant's MIDASBUY trademark. The disputed domain name is also identical to Complainant's domain name <midasbuy.com>. Although Complainant's trademark is a combined word and device mark, the word element is clearly separated from the device element showing the MIDASBUY word element prominently, resulting in the disputed domain name that is identical to Complainant's trademark.

The disputed domain name was registered on June 18, 2020, significantly after Complainant's registration of its MIDASBUY trademark and <midasbuy.com> domain name. Respondent is not affiliated with Complainant and is not commonly known by the the disputed domain name. Complainant has not authorized Respondent to use Complainant's trademark in any manner.

The disputed domain name resolves to a website that copies and attempts to duplicate Complainant's logo and official website, with Respondent then attempting to profit from such confusion by selling UCs to users. The Domain Name's website has purposely been designed to serve as an exact replica of Complainant's website, all as a means of deceiving internet users into believing that the disputed domain name and its website are associated with Complainant. As such, Respondent is attempting to cause consumer confusion in a nefarious attempt to profit from such confusion.

B. Respondent:

The Respondent did not submit a Response.

C. Procedural findings:

Having reviewed the communication 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 disputed domain name was registered on 18 June 2020 and has an active website.

The Complainant has demonstrated that it owns the registered trademark “MIDASBUY”, in which word element is clearly separated from its device element.

The website at the disputed domain is a replica of Complainant’s <midasbuy.com> website. This demonstrates that Respondent has knowledge of and familiarity with Complainant's brand and business.

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.

Even though 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.

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

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

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

The Complainant owns trademarks for MIDASBUY since November 2019, registered in Hong Kong, vide registration nos. 305112053 and 305119669. The Complainant has provided a declaration in support stating that trademarks are currently in use in connection with the classes of services or goods as specified in trademark registration certificates. The same is also evident from the Complainant’s website <midasbuy.com>.

The disputed domain name <midasbuy.live> includes the Complainant’s mark in it’s entirely. It has been long held that when a domain name wholly incorporates Complainant's registered mark that is sufficient to establish identity or confusing similarity for purposes of the Policy.

Besides it is also well-established that the extensions such as ‘.LIVE’ in a disputed domain name do not affect a finding of similarity, because it is technically required for the operation of a domain name.

Therefore, the Examiner finds that the requirements set forth under Paragraph 1.2.6.1. of the URS Procedure have been satisfied.

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

The active website at the disputed domain name indeed proves to the bad faith on behalf of the Respondent, as it replicates the design of the Complainant's website at <midasbuy.com>. The said conduct of the Respondent indeed demonstrates knowledge of and familiarity with Complainant's brand and business. This nowhere indicates any legitimate interests on behalf of the Respondent.

The Complainant has met its burden by presenting a prima-facie case in this URS matter, while the Respondent has provided no response to the Complaint. Further, the Complainant has neither authorized the Respondent to make use of its mark in any manner nor the Respondent is known by the disputed domain name.

Based on the above, the Examiner finds that the Respondent lacks any rights or legitimate interests with respect to the disputed domain name as per the requirements set forth under Paragraph 1.2.6.2. of the URS Procedure.

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

Complainant has provided evidence that it registered the trademarks in 2019, while it already had live website at <midasbuy.com> since June 2018. The disputed domain name has registration date of 18 June 2020 and replicated the design, feel and look of the Complainant's official website. In such a scenario, it is highly improbable that the Respondent did not know the Complainant's trademark or business when registering the domain name.

Further, it is quite evident that by using the domain name, the Respondent intentionally attempted to attract for commercial gain, Internet users to the Respondent's web site by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, and endorsement of the Respondent's web site.

That is, the Respondent has not offered any bona-fide goods or services upon the disputed domain name. Further, before the determination in this matter could be pronounced, the disputed domain name has started redirecting to a different domain name <midasbuy.club>, which again is a replica of Complainant's official website.

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: Accepts

Domain Name(s): MIDASBUY.LIVE



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: Ankur

Surname: Raheja

Date: 2020-07-17