



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

URS DISPUTE NO. 800AA499

Determination DEFAULT

I. PARTIES

Complainant: Sergio Rossi S.p.A., IT
Complainant's authorized representative(s): Federica Caretta, IT

Respondent: Xie Da Wei, CN

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

Domain Name(s): sergiorossie.store
Registry Operator: DotStore Inc.
Registrar: Alibaba Cloud Computing Ltd. d/b/a HiChina

III. PROCEDURAL HISTORY

Complaint submitted: 2017-05-29 16:42
Lock of the domain name(s): 2017-05-30 16:54
Notice of Complaint: 2017-05-31 10:48
Default Date: 2017-06-15 00:01
Default Notice: 2017-06-15 12:45

IV. EXAMINER

Examiner's Name: Molly Li

The Examiner certifies that she has acted independently and impartially and to the best of her 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 to be a leading provider of shoes in Italy, being an extremely well-known company nationally and internationally for decades and to be the owner of several trademark registrations for "SERGIO ROSSI". It further asserts that the disputed domain name is substantially identical to the Complainant's marks.

According to the Complainant the Respondent does not have any legitimate right or interest to the disputed domain name since he is not known to the Complainant or has been authorized by the Complainant to register the domain name inclusive of Complainant's registered trademark "SERGIO ROSSI".

As to the registration and use of the disputed domain name in bad faith, the Complainant asserts that the Respondent, by using the disputed domain name, intentionally attempted to attract for commercial gain, Internet users to his website or other online location, by creating a likelihood of confusion with the Complainant's 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 website to which the domain name resolves reproduces the layout and the look-and-feel of the Complainant's website "sergiorossi.com" and sells fake products.

B. Respondent:

The Respondent did not reply 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.

Moreover, as per paragraphs 4.2 URS Procedure and 2(a)(i) URS Rules, MFSD notified the Respondent of the Complaint, by sending a hard copy of the Notice of Complaint to the addresses listed in the Whois contact information, in particular by sending the Notice of Complaint to all e-mail, postal mail and facsimile addresses shown in the domain name's registration data in the Whois database for the registered domain name holder, the technical contact and the administrative contact. Notification of Registrant of the Complaint by postal mail and facsimile failed, since the postal mail address and fax number provided by the Registrant for domain name holder, technical contact and administrative contact were incorrect.

According to paragraph 9(d) URS Rules provides that *"in absence of a Response, the language of the Determination shall be English"*, therefore this Determination is written in English.

D. Findings of fact:

The disputed domain name "sergiorossie.store" was registered on April 26, 2017. The website to which the domain name resolves shows an online shop of shoes, selling products identical or similar to the products of Complainant.

The Complainant has shown trademark rights over the expression "SERGIO ROSSI".



E. Reasoning:

In spite of Respondent's default, URS Procedure 1.2.6 requires the Complainant to make a *prima facie* case, showing clear and convincing evidence for each of the three elements so as to have the disputed domain name suspended.

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

The Complainant is the owner, among others, of the international trademark registration No. 502469 for the word mark "SERGIO ROSSI" registered on May 15, 1986 covering goods in classes 18 and 25, the EU trademark registrations No. 886630 for the device mark "SERGIO ROSSI" registered on October 20, 1999 covering goods in class 25, No. 391656 for the word mark "SERGIO ROSSI" covering goods in classes 3, 18 and 25 and No. 4466314 for the device mark "SERGIO ROSSI" registered on June 21, 2007 covering services in class 35.

The disputed domain name consists of the Complainant's trademark and the letter "e". It is consensus view of the UDRP and URS panels that adding, deleting or substituting letters or numbers of the complainant's registered marks does not preclude a finding of confusing similarity. The TLD .store even enhances the likelihood of confusion, since the Internet users might think to reach to the Complainant's e-commerce website.

Hence, the domain name is confusingly similar to the Complainant's trademarks.

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(s)

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 him a license or permission to register the disputed domain name or use its trademarks.

Also, 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 a right or legitimate interest.

Under 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 has therefore met the requirement of the URS 1.2.6 (ii).

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

According to the mainstream search engine in China and EU, a search of the expression "SERGIO ROSSI" by the Respondent would have easily revealed the Complainant and its registered trademarks. Moreover, the Complainant's trademark is not generic, but well-known internationally. The Respondent, being a Chinese resident, fails to respond to the Complaint and thus fails to plausibly explain why it has created the domain name confusingly similar with the Complainant's well-known marks.

Moreover, the disputed domain name "sergiorossie.store" resolves to a website which is an online shop of shoes. It reproduces the layout of the Complainant's website and also displays pictures of shoes which are similar to Complainant's products. By such use Respondent intentionally attempted to attract for commercial gain Internet users to the Respondent's web site or other on-line location, by creating a likelihood of confusion with the Complainant's mark as to source, sponsorship, affiliation, or endorsement of his website, and, therefore, such use does not qualify as a *bona fide* use.

Lastly, the Respondent provided incorrect postal mail and fax number for domain name holder, technical contact and administrative contact.

The Examiner finds that the Complaint meets the requirement of the URS 1.2.6 (iii) as well.

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): 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: Molly

Surname: Li

Date: June 21, 2017