



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

URS DISPUTE NO. 837FDF94

Determination DEFAULT

I. PARTIES

Complainant: Royalmail Group Limited, UK
Complainant's authorized representative(s): Dac Beachcroft Llp, UK

Respondent: Anshul Goyal, This domain is on sale, IN

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

Domain Name(s): royalmail.space
Registry Operator: DotSpace Inc.
Registrar: GoDaddy.com LLC

III. PROCEDURAL HISTORY

Complaint submitted: 2016-05-10 14:29
Lock of the domain name(s): 2016-05-12 17:16
Notice of Complaint: 2016-05-13 10:13
Default Date: 2016-05-28 00:00
Default notice: 2016-05-28 18:52

IV. EXAMINER

Examiner's Name: Amarjit Singh

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 that Royal Mail Group Limited (Royal Mail) is a leading provider of postal and delivery services in the UK, and is a household name. It is extremely well-known company worldwide, with a history dating nearly 500 years. Royal Mail is the company's main name and is featured on its distinctive logo.

The Complainant further asserts that the trademark is not generic and it is the main name of the company, which has a history of nearly 500 years and has used Royal Mail as its sole trading name for at least 30 years.

The Complainant further asserts that Mr. Goyal's primary motive to buy the domain name in order to sell it on at a profit.

B. Respondent:

The Respondent did not file its reply to the complaint as notified by the provider.

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 para 4.2 URS Procedure and 2(a)(i) URS Rules, MFSD notified the Registrant 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 email and postal-mail 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 failed, since the postal-mail address provided by the Registrant for domain-name holder, technical contact and administrative contact was incorrect.

Para. 9(d) URS Rules provides that "in absence of a Response, the language of the Determination shall be English"

D. Findings of fact:

The domain name <royalmail.space> was registered on August 15, 2015. The domain name in question resolves to a parking page and is also offered for sale on Sedo for 99 USD as per the evidence submitted by the complainant with its complaint.

The complainant has established trademark right in the mark "ROYAL MAIL" by submitting copy of the trademark registration certificates of European Union and United Kingdom Trademark registrations (Annexure 2.1 & 2.2 to the complaint).

E. Reasoning:



The Examiner shall determine the admissibility, relevance, materiality and weight of the evidence.

For the Complainant to succeed, it must establish that each of the three conditions under the URS Procedure 1.2.6 are satisfied.

The burden of proof shall be clear and convincing evidence.

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

The complainant is the owner/proprietor of trademark “ROYAL MAIL” in European Union and United Kingdom. The said fact is established by the copies of the registration certificates as are provided by the complainant (Annexure 2.1 & 2.2) in respect of the goods/services falling in classes 1, 2, 6, 12, 16, 17, 19, 25, 37, 38, 40, 41 & 42.

The domain name is identical to the trademark ROYAL MAIL of the complainant under the new gTLD .space

In addition to the registration of the trade/service mark, URS procedure and provider rules also put the burden on the complainant to provide evidence of use of the mark in respect of goods or services by way of declaration and specimen of current use in commerce or by including a relevant SMD (Signed Mark Data) from the Trademark Clearinghouse.

The complainant has provided screenshot of homepage of the website hosted on domain name <royalmail.com> as a evidence of use of the mark in commerce.

The examiner concludes that the Complainant has satisfied the first element of URS and concludes that the Domain name is identical to the registration of Domain Name at issue.

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

The respondent has no rights or legitimate interests of domain name.

The Respondent has not responded to the contentions raised by the Complainant in the complaint and has also not shown any interest in representing.

The Complainant has provided screenshot of parking page hosted on domain name <royalmail.space>. The landing page contains third party advertisement links incorporating the Complainant’s mark “Royal Mail”. The said domain has been parked by Sedo, a third party parking company.

The domain name <royalmail.space> is offered for sale by Sedo for 99 USD as evident from the annexure submitted by complainant with its complaint.

On receipt of the complaint by the provider, the domain name offer was increased from 99 USD to 149 USD as per the screenshot to the examiner in the proceedings.

Under these circumstances and representation of any evidence to the contrary by the respondent, the examiner finds that the complainant has 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

URS Procedure 1.2.6.3 identifies non exclusive list of circumstances that Examiner could consider as constituting bad faith:

- Circumstances indicating that the domain name(s) was/were registered or acquired primarily for the purpose of selling, renting, or otherwise transferring the domain name registration(s) 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 domain name(s).
- The domain name(s) was/were 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.
- The domain name(s) was/were registered primarily for the purpose of disrupting the business of a competitor.
- By using the domain name(s), the 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 the source, sponsorship, affiliation, or endorsement of the Respondent's web site or location or of a product or service on the Respondent's web site or location.
URS Procedure 5.7 sets out examples of circumstances demonstrating bona fide registration of the domain name(s):
- Before any notice to the Respondent of the dispute, there is evidence of Respondent's use of, or demonstrable preparations to use, the domain name(s) or a name corresponding to the domain name(s) in connection with a bona fide offering of goods or services.
- The Respondent (as an individual, business, or other organization) has been commonly known by the domain name(s), even if the Respondent has acquired no trademark or service mark rights.
- The Respondent is making a legitimate or fair use of the domain name(s), without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark(s) or service mark(s) at issue.
URS Procedure 5.8 sets out examples of defenses to the Complaint to demonstrate that the Respondent's use of the domain name is not in bad faith:
- The domain name is generic and descriptive and the Registrant is making fair use of it.
- The domain name(s) sites are operated solely in tribute to or in criticism of a person or business.
- Respondent's holding of the domain name(s) is consistent with an express term of a written agreement entered into by the disputing Parties and that is still in effect.



- The domain name(s) is(are) not part of a wider pattern or series of abusive registrations because the domain name(s) is(are) of a significantly different type or character to other domain names registered by the Respondent.
URS Procedure 5.9 sets out other factors that the Examiner shall consider:
- Trading in domain name for profit, and holding a large portfolio of domain names, are themselves not indicia of a bad faith under the URS. Such conduct, however, may be abusive in a given case depending on the circumstances of the dispute.
- Sale of traffic (i.e. connecting domain names to parking pages and earning click-per-view revenue) does not in and of itself constitute bad faith under the URS. Such conduct, however, may be abusive in a given case depending on the circumstances of the dispute. In this connection the Examiner shall take into account the nature of the domain name(s), the nature of the advertising links on any parking page associated with the domain name and that the use of the domain name(s) is ultimately the Respondent's responsibility.)

In the instant case and as discussed in the foregoing paragraph the main purpose of the respondent seems to be encashing upon the goodwill and reputation of the trade/service mark ROYAL MAIL of the complainant.

The fact that the WHOIS record of the domain name <royalmail.space> is also incorrect leads to the conclusion of bad faith in favour of the complainant.

The sale of traffic through the parking page hosted and offered for sale by Sedo in respect of the domain name <royalmail.space> is also indicative of the bad faith registration by the respondent.

4. Abusive Complaint

The examiner finds that Complaint was neither abusive nor contained a deliberate materially falsehood.

VIII. DETERMINATION

A. Demonstration of URS elements

Demonstrated

B. Complaint and remedy

Complaint: Accepted

Domain Name(s): <royalmail.space> 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: Amarjit

Surname: Singh

Date: June 1, 2016