



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

**URS DISPUTE NO. 869FEBA5**

Determination DEFAULT

**I. PARTIES**

Complainant(s): Breitling (CH)  
Complainant's authorized representative: IP Twins (FR)

Respondent(s): Jinkon (CN)

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

Domain Name: BREITLING.ONLINE  
Registry Operator: Radix Technologies Inc.  
Registrar: Xiamen ChinaSource Internet Service Co., Ltd

**III. PROCEDURAL HISTORY**

Complaint submitted: 2024-04-15 13:19  
Lock of the domain name(s): 2024-04-15 21:20  
Notice of Complaint: 2024-04-17 09:57  
Default Date: 2024-05-02 00:00  
Notice of Default: 2024-05-02 09:57  
Panel Appointed: 2024-05-02 09:57  
Default Determination issued: 2024-05-04 00:37

**IV. EXAMINER**

Examiner's Name: Carrie Shu Sheng

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:** Breitling (CH)

The Complainant is a Switzerland based limited liability company. Founded in 1884, the Complainant is known as one of the high-end luxury watchmakers worldwide.

**B. Respondent:** Jinkon (CN)

The Respondent Jinkon is a natural person with its last known address in Zhejiang, China. The Respondent did not submit a Response in the current proceeding.

**C. Procedural findings:**

Attempts to send emails to the Respondent's email domain.38234@domainsprivacyprotection.co by the domain name dispute resolution provider failed. The case administrator also confirmed with the Registry Operator that the Respondent's email was domain.38234@domainsprivacyprotection.co. Registry Operator confirmed that in their databases the email address ended with .co.

In respect of this, the case administrator sent the Notice of Complaint by postal service to the physical address of the Respondent and by email to the email address ending with .com which is working.

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 Complainant Breitling, founded in 1884, is known for precision-made chronometers designed for aviators. With stores and distributors on all continents, the Complainant has owned a reputation as one of the best high-end luxury watchmakers worldwide.

To that effect, the Complainant owns numerous trademark rights worldwide in the term BREITLING:

- International trademark BREITLING No. 613794 registered on 7 January 1994, duly renewed and covering goods in international class 14
- International trademark BREITLING (logo) No. 646158 registered on July 19, 1995, duly renewed and covering goods international classes 03, 09, 16, 18, 25, and 28.

The disputed domain name BREITLING.ONLINE was registered on April 12, 2024 via the Registrar Xiamen ChinaSource Internet Service Co., Ltd.

**E. Reasoning:**

According to Paragraph 13 of the URS Rules, the Examiner shall make a Determination of the 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 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.



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

- That the disputed domain name is 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;
- 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(s) is(are) identical or confusingly similar to a word mark**

The Complainant has established to have trademark rights in the BREITLING trademark which is in current use. The disputed domain name is entirely identical to the Complainant's BREITLING trademark. The top-level domain is not taken into consideration when assessing the risk of confusion, being a technical requirement of the registration. Considering that BREITLING is a well-known watchmaker brand and the term "breitling" does not have relevant dictionary meaning, it is hard to conceive that Respondent independently come up with the same combination of letters to be registered for its domain name. As an arbitrary term, arbitrary and fanciful marks are also among the strongest varieties of marks in terms of legal protection afforded. See WIPO Case No. D2004-1041.

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(s)**

The Complainant is required to make out a *prima facie* case that the Respondent lacks rights or legitimate interests; and once such *prima facie* case is made, the burden shifts to the Respondent who has to demonstrate his rights or legitimate interests.

In the present case and according to the Complaint, it does not seem that the Complainant has ever given its consent to the Respondent to use its BREITLING trademark for any domain name or for any other purpose. There is no evidence before the Examiner showing that the Respondent "Jinkon" is known by the disputed domain name or has acquired rights in the BREITLING trademark.

In the case at issue, the Respondent decided not to submit any Response or evidence of any concrete circumstances which could demonstrate, pursuant to the URS, that he has any rights or legitimate interests in the disputed domain name.

Under these circumstances, the Examiner finds that the requirements of URS Procedure 1.2.6.2 have been satisfied.

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

According to URS Procedure 1.2.6.3, the Complainant must thirdly establish that the disputed domain name has been registered and is 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.

Noting that the scenarios of bad faith uses and registration are non-exhaustive and merely illustrative, even where a complainant may not be able to demonstrate the literal or verbatim application of one of the above scenarios, evidence demonstrating that a respondent seeks to take unfair advantage of, abuse, or otherwise engage in behaviour detrimental to the complainant's trademark would also satisfy the complainant's burden.

In a non-exhaustive manner, below circumstances surrounding the disputed domain name's registration and use confirm the finding that the Respondent has registered and is using the disputed domain name in bad faith:

- The disputed domain name is not used in connection with a bona fide offering of goods or services;
- the Respondent is not known, as an individual or an organization, by the disputed domain name and holds no trademark in BREITLING;
- the Respondent registered the disputed domain name despite having received a notification stating that the domain name matched a trademark registered in the Trademark Clear House (TMCH);
- a simple Google search of "Breitling" only yields results related to the Complainant.

Taking into account the above circumstances, it is highly unlikely that the Respondent was unaware of the Complainant's rights in the BREITLING trademark when the Respondent registered the disputed domain name. The presumed knowledge of an otherwise well-known mark when registering a confusingly similar domain name implies bad faith.

The Respondent did not provide any formal response with conceivable explanation of his behaviour within these proceedings. In the light of the above, the Panel finds that the disputed domain name has been registered and is being used in bad faith pursuant URS Procedure 1.2.6.3.

## **VIII. DETERMINATION**

### **A. Demonstration of URS elements:**

Demonstrated

### **B. Complaint and remedy**

Complaint: Accepts

Domain Name: BREITLING.ONLINE

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: Carrie Shu

Surname: Shang

Date: 2024-05-04