



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

URS DISPUTE NO. 93D58EAD

Determination DEFAULT

I. PARTIES

Complainant(s): Deezer (FR)

Complainant(s)'s authorized representative(s): Domgate (FR)

Respondent(s): Withheld for Privacy Purposes, Privacy service provided by Withheld for Privacy ehf (IS)

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

Domain Name(s): DEEZEROFFICIAL.SITE

Registry Operator: DotSite Inc.

Registrar: Namecheap, Inc.

III. PROCEDURAL HISTORY

Complaint submitted: 2022-06-17 09:09

Lock of the domain name(s): 2022-06-22 13:17

Notice of Complaint: 2022-06-23 17:37

Default Date: 2022-07-08 00:00

Notice of Default: 2022-07-08 14:33

Panel Appointed: 2022-07-11 19:36

Default Determination issued: 2022-07-17 14:58

IV. EXAMINER

Examiner's Name: Ganna Prokhorova

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 is an online music streaming service launched in 2007 in France and currently has more than 16 million monthly active users. The Complainant owns several trademarks for the sign DEEZER, including the following:

- International trademark registration number 1024994 for DEEZER and device, claimed in colors, registered on October 9, 2009 and duly renewed, designating multiple jurisdictions, and specifying services in classes 35, 38 and 41; and
- European Union trademark registration number 008650079 for DEEZER, registered on May 3, 2010 and duly renewed, specifying services in classes 35, 38 and 41.

The Complainant has also registered numerous deezer- formative domain names, including <deezer.com> and <deezer.fr>, <deezer.partners> and <deezer.family>.

The Complainant has recently discovered the domain name <deezeroofficial.site> which is not associated with any active website.

The Complainant asserts the following regarding the Respondent:

1. The registered domain name <deezeroofficial.site> is identical or confusingly similar to a word or mark [URS 1.2.6.1]:

For which the Complainant holds a valid national or regional registration and that is in current use

2. The Respondent has no legitimate right or interest to the domain name [URS 1.2.6.2]
3. The domain names were registered and is being used in bad faith [URS 1.2.6.3]:

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).

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.

B. Respondent:

The Respondent has not filed an official response 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.

D. Findings of fact:

The registration date of the Disputed Domain Name is as below:

<deezeroofficial.site>: 2022-05-30

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.

E. Reasoning:

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 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 reputed and well-known for its services and also owns trademark registrations for DEEZER sign in different jurisdictions.

The Complainant claims that the Disputed Domain Name is confusingly similar to the DEEZER trademark. The Examiner accepts that the generic term “official” does not alter the underlying trademark or negate the confusing similarity and it does not sufficiently differentiate the Disputed Domain Name from that trademark.

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

For the foregoing reasons, the Panel finds the Complainant has satisfied URS 1.2.6.1 as the Disputed Domain Name is confusingly similar to the Complainant’s registered trademarks.

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 prove then shifts to the Respondent to show it does have rights or legitimate interests.

The Complainant asserts that no license or permission of any kind has been given by the Complainant to the Respondent to use the Complainant's trademarks, and that the Respondent is not known under the original name DEEZER.

The Complainant further submits that DEEZER is not an existing word but an invented term so it is not conceivable to imagine that the Respondent did not know the trademark when he registered the domain name.

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

For the foregoing reasons, the Panel finds the Complainant has satisfied URS 1.2.6.2 as the Respondent has no legitimate rights or interest to the Disputed Domain Name.

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

To satisfy URS 1.2.6.3, the Complainant must prove both the registration and use of the domain name are in bad faith.

The Complainant claims the Disputed Domain Name was registered and is being used in bad faith since the Registrant has intentionally attempted to attract consumers by using in such domain name the DEEZER trademark of the Complainant.

The Complainant has provided evidence that its trademark DEEZER has been recognized by the consumers and is well known in France and all over the world for many years that was confirmed in many decisions issued by the WIPO Arbitration and Mediation Center, as well as FORUM (see, *inter alia*, Cases D2014-2012, D2015-1898, and FA1507001629591).

The Complainant asserts that the Respondent has undoubtedly registered the domain name precisely in order to unduly benefit from the Complainant's widely known rights, and the consumers may believe that the domain name is operated by or linked to the Complainant. The Examiner agrees. The Disputed Domain Name resolves to an inactive webpage <http://www.deezerofficial.site> and is consequently deprived of any real and substantial offer of goods/services. The customers may incorrectly believe the website belongs to the Complainant but is not functioning correctly.

For the foregoing reasons, the Panel finds the Complainant has satisfied URS 1.2.6.3 as the Respondent registered the Disputed Domain Name and is using it in bad faith.

As regards the Complainant's allegations that the intent of the Respondent was and still is clearly to obtain money, the Examiner, however, does not find any evidence in the case file that the Respondent registered and is using the domain name in order to make money from the confusion with DEEZER trademarks.

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): DEEZEROFFICIAL.SITE 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: Ganna

Surname: Prokhorova

Date: 2022-07-17