



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

URS DISPUTE NO. 9E8E3669

Determination DEFAULT

I. PARTIES

Complainant(s): Magellan (FR)
Complainant's authorized representative: MIIP – Made in IP (FR)

Respondent(s): He Rong (CN)

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

Domain Name(s): FRBONOBO.SHOP
Registry Operator: GMO Registry, Inc.
Registrar: Chengdu west dimension digital technology Co., LTD

III. PROCEDURAL HISTORY

Complaint submitted: 2024-01-10 15:50
Lock of the domain name(s): 2024-01-16 11:17
Notice of Complaint: 2024-01-16 14:24
Default Date: 2024-01-31 00:00
Notice of Default: 2024-01-31 13:45
Panel Appointed: 2024-02-01 10:27
Default Determination issued: 2024-02-04 08:20

IV. EXAMINER

Examiner's Name: Carrie Shu Shang

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: [*Magellan*]

The Complainant Magellan is a French Company, part of GROUPE BEAUMANOIR and the exclusive proprietor of the Trademark BONOBO, a famous fashion trademark for men and women.

B. Respondent: [*He Rong*]

The Respondent He Rong is a natural person with its recorded residence in Jiangsu, China. The Respondent did not submit a Response in the current proceeding.

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 Complainant, MAGELLAN, a French company part of GROUPE BEAUMANOIR, is the owner of the following trademark registrations (hereinafter “Trademark BONOBO”), a famous fashion brand for men and women:

- French trademark BONOBO no 3127913 filed on 25 October 2001 in class 25;
- French trademark BONOBO no 3437302 filed on 27 June 2006 in classes 03, 14, 16, 18, 24 and 25;
- EU trademark BONOBO no 005163225 filed on 27 June 2006 in classes 14, 18 and 25;
- International trademark BONOBO no 919816 filed on 12 January 2007 in classes 03, 14, 18, 24 and 25.

The Complainant is also the owner of the domain name <bonoboplanet.com>, registered since 1 September 2006.

The Trademark BONOBO is currently in use, notably through the Complainant's official website: <<https://www.bonoboplanet.com/>>.

The disputed domain name <frbonobo.shop> was created on 2 January 2024, via Chengdu West Dimension Digital Technology Co., LTD.

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 are 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(s) is(are) identical or confusingly similar to a word mark

The disputed domain name <frbonobo.shop> is confusingly similar to the Trademark BONOBO, given that it incorporates such mark or at least its dominant component the wording “BONOBO” in its entirety. The additional prefix “fr” is the country code abbreviation of France, where the Complainant’s business is mainly based at. The added prefix “fr” does not negate the confusing similarity that exists. It is inferred that the addition of “fr” has no other legitimate purpose, does not add any distinctiveness and may further mislead consumers of the branded products.

The new top-level domain <.shop> should not impact the finding of confusing similarity.

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 this present case and according to the Complainant, the Complainant has never given consent to Respondent to use its Trademark BONOBO, for any domain name nor for any other purpose. The Respondent “He Rong” is not known by the disputed domain name and has not acquired rights in the Trademark BONOBO or FRBONOBO trademark.

It is acknowledged that once the Panel finds such *prima facie* case is made, the burden of production shifts to the Respondent to come forward with appropriate allegations or evidence demonstrating rights or legitimate interests in the disputed domain name. 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 it 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 use 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 findings that the Respondent has registered and is using the disputed domain name in bad faith:

- The domain name is used in connection with a fraudulent website that reproduces the Complainant's website (trademark, logo, products, pictures, etc.);
- The Respondent reproduces the general appearance of the Complainant's official website and claims to offer BONOBO items at bargain prices in order to attract the consumer and carry out scams (*See* WIPO UDRP D2021-3719, holding that such a use is "emblematic of bad faith use of the disputed domain name").

Taking into account the afore-mentioned circumstances, it is highly unlikely that Respondent was unaware of Complainant's rights in Trademark BONOBO 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 its 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(s): FRBONOBO.SHOP
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: 2024-02-04