



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

URS DISPUTE NO. A6098DD3

Determination DEFAULT

I. PARTIES

Complainant: NCSoft Corporation, Republic of Korea
Complainant's authorized representative(s): Myeongkyu Gill, NCSoft Corporation, Republic of Korea

Respondent: Navrin Sidhu, Bravestar, United Kingdom

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

Domain Name(s): AION.GAMES
Registry Operator: Dog Beach, LLC (Donuts, Inc.)
Registrar: GoDaddy.com Inc.

III. PROCEDURAL HISTORY

Complaint submitted: 2018-11-15 02:32
Lock of the domain name(s): 2018-11-19 08:47
Notice of Complaint: 2018-11-19 10:52
Default Date: 2018-12-04 00:01
Default Notice: 2018-12-04 10:08
Panel appointed: 2018-12-04 10:51

IV. EXAMINER

Examiner's Name: Lars Karnoe

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:

Founded in Seoul, South Korea, in 1997, with subsidiary companies in the U.S., Japan, Taiwan, and England, the Complainant is a premier global provider, developer, and publisher of online, video, and mobile games and related interactive entertainment with highly popular game titles such as Aion, Lineage, City of Heroes, WildStar, Guild Wars, Blade & Soul.

The Complainant is the proprietor of several trademarks comprising or consisting of AION, incl. but limited to:

- European Verbal Trademark AION No. 004789178 registered on December 15, 2006
- Korean Verbal Trademark AION No. 41-0111031 registered on January 10, 2005
- Korean Verbal Trademark AION No. 45-0017363 registered on September 6, 2006
- Korean Verbal Trademark AION No. 40-0794672 registered on July 9, 2009
- Korean Figurative Trademark AION No. 45-0036121 registered on September 7, 2011
- U.S. Verbal Trademark AION No. 5109833 registered on December 27, 2016
- U.S. Verbal Trademark AION No. 5109835 registered on December 27, 2016

all registered in classes relating to either “Computer game software” (class 9) and/or online “Entertainment services” (class 38 and/or 41), including “Design and development of software (class 42).

Furthermore, the Complainant owns numerous domain names and operates the related websites, using the above-mentioned trademark, including, but limited to <http://aion.game>, <http://aiononline.com>, <http://aiononline.net>, <http://aiononline.biz>, and <http://aion.plaync.com>.

Finally, the Complainant claims that the trademarks, through extensive use, substantial sales and active promotion is famous and distinctive of Complainant's goods and services.

The disputed domain name was registered on October 16, 2018, well after the registration of the Complainant's trademarks mentioned above.

The Complainant states to not have any connection or affiliation with the Respondent. The Respondent has not been granted any license or consent, express or implied, by the Complainant to use the famous AION mark in a domain name or in any other manner. There is no evidence that the Respondent has any trademark or other rights in the AION mark or is commonly known by the AION mark.

Moreover, the Respondent contacted the Complainant offering the domain name for sale to this latter.

B. Respondent:

The Respondent did not file an official response within the deadline but replied to the e-mail containing the notification of administrative proceedings by agreeing to transfer the domain.

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.



D. Findings of fact:

Having reviewed the evidence and conducted its own investigations, it is this Panels opinion that the trademark AION is highly distinctive for the relevant goods and – at least to some extent – well-known.

Also, this Panel finds that evidence submitted by the Complainant is true and fair.

E. Reasoning:

Even though the Respondent has not filed a Response to the Complaint and offered to transfer the disputed domain name, 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 in order that a domain name may be suspended.

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

As mentioned above, the Complainant is the proprietor of several trademarks, registered for goods and services in classes 9, 38, 41 and 42, all – in some way – related to the development, marketing and selling of computer game software.

All the trademarks consist or comprise the word “AION”, which is identical to the domain name.

Furthermore, although it is not customary to include the TLD in the assessment of the likelihood of confusion, in this particular case the domain name is registered as .games, which only further enhances the likelihood of confusion, as the domain name is identical and TLD describes the goods the Complainant’s trademarks are registered for.

Consequently, the domain name is identical the Complainant’s registered trademarks.

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

As mentioned above, the domain name is registered on the .games TLD and contains only a generic Go Daddy landing page.

Given that the Respondent has no connection or affiliation with the Complainant, has not been granted any license or consent, express or implied, by the Complainant to use the famous AION mark in a domain name or in any other manner and there is no evidence that the Respondent has any trademark or other rights in the AION mark or is commonly known by the AION mark., as well as the nature of the Complainant business, including the domain names registered by the Complainant, there can be no doubt that the Respondent has no legitimate interest in the domain.

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

Given the extensive use and general knowledge of the Complainant's trademark and the subsequent reputation hereof, it is highly improbable that the Respondent did not know the Complainant's trademark or business when registering the domain name.

The subsequent offer to the Complainant to sell the disputed domain name confirms the above and that the domain name was registered by the Respondent primarily for the purpose of selling, renting or otherwise transferring the domain name registration to the Complainant who is the owner of the trademark (URS Procedure 1.2.6.3 (a)).

VIII. DETERMINATION

A. Demonstration of URS elements

Demonstrated

B. Complaint and remedy

Complaint: Accepts

Domain Name(s): AION.GAMES Suspend 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: Lars

Surname: Karnoe

Date: 7 December 2018