



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

URS DISPUTE NO. AB35427A

Determination DEFAULT

I. PARTIES

Complainant(s): Exness Holdings Cy Limited (CY)

Respondent(s): san qian (CN)

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

Domain Name(s): EXNESSVIP.WORLD

Registry Operator: Binky Moon, LLC

Registrar: GoDaddy.com, LLC

III. PROCEDURAL HISTORY

Complaint submitted: 2024-02-26 13:05

Lock of the domain name(s): 2024-02-28 10:55

Notice of Complaint: 2024-02-29 17:43

Default Date: 2024-03-15 00:00

Notice of Default: 2024-03-15 19:02

Panel Appointed: 2024-02-15 19:05

Default Determination issued: 2024-03-15 19:38

IV. EXAMINER

Examiner's Name: Paddy Tam

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 is part of the Exness Group, a global financial broker offering a broad range of instruments from multiple asset classes since 2008. Exness Group is licensed and regulated by leading supervisory authorities.

The Complainant operates its official website on <exness.com> and the related domain name has been registered since August 26, 2008. The EXNESS word trademark is featured prominently on the Complainant's website. The Complainant also owns over 770 domain names with the word EXNESS.

The Complainant is the owner of the EXNESS word mark, registered in the following countries/jurisdictions:

- International trademark registration No. 1133115 EXNESS, in class 36, designating AG, AU, BH, BQ, BW, CA, CW, DK, EE, FI, GB, GE, GH, GR, IE, IL, IS, JP, KR, LT, MG, NO, OM, SE, SG, ST, SX, SY, TM, TR, US, UZ, AL, AM, AT, AZ, BA, BG, BT, BX, BY, CH, CN, CU, CZ, DE, DZ, EG, ES, FR, HR, HU, IR, IT, KE, KG, KP, KZ, LI, LR, LS, LV, MA, MC, MD, ME, MK, MN, MZ, NA, PL, PT, RO, RS, SD, SI, SK, SM, SZ, TJ, UA, VN;
- EUTM trademark registration, No. 018616417 EXNESS, in classes 9, 36 & 42.

B. Respondent:

The Respondent appears to be an individual based in Henan, China.

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 2023-05-23.

Despite the Respondent has defaulted, the Examiner is still required to review the case on the merits of the claim. [URS 6.3]

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 shall prove its rights in a word mark which is in use and that the Disputed Domain Name is identical or confusingly similar to the word mark.

In the present case, the Examiner is satisfied that the Complainant is a global financial broker offering a broad range of instruments from multiple asset classes since 2008 and also the owner of the EXNESS trademark.

The Complainant alleges that the Disputed Domain Name incorporates the entirety of the EXNESS trademark, which is likely to cause confusion among consumers, erroneously suggesting an official connection or endorsement by the trademark owner. Additionally, the use



of the term VIP alongside the EXNESS trademark in the Disputed Domain Name can mislead consumers into believing that the Disputed Domain Name is an official or premium service provided by the Complainant, thereby diluting our trademark's distinctiveness and harming Complainant's reputation. In addition, the .WORLD new generic top-level domain (gTLD) does not reduce the likelihood of confusion. To the contrary, such new gTLD means that it targets a global audience, raising the amount and risk of damage to the Complainant's trademark.

By doing side-by-side comparison, the Examiner accepts that the Disputed Domain Name is confusingly similar to the Complainant's EXNESS trademark, and the additional term VIP and the new gTLD .WORLD do not negate the similarity.

For the foregoing reasons, the Panel finds that the Complainant has satisfied URS 1.2.6.1.

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 Disputed Domain Name, and the burden of prove then shifts to the Respondent to show it does have rights or legitimate interests.

The Complainant claims that the website resolved by the Disputed Domani Name exploits Complainant's goodwill by offering the provision of financial services which directly competes with and undermines the trust in the Complainant's legitimate offerings. Moreover, the website's false association with KuCoin, a well-known crypto exchange broker, not only misleads customers but also risks the dilution and tarnishment of the reputation of the Complainant's trademark, due to the potential for subpar services or fraudulent activities that are neither approved nor overseen by the Complainant.

Having considered the overall circumstances, the Examiner finds that the Complainant has 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 within the required Response period.

For the foregoing reasons, the Panel finds that the Complainant has satisfied URS 1.2.6.2.

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 Disputed Domain Name are in bad faith.

The Complainant claims that the Respondent must have known the Complainant and the EXNESS trademark. It is highly unlikely that the Respondent was unaware of the Complainant's EXNESS trademark rights when he registered it on May 23, 2023, significantly after the trademark registrations for the EXNESS trademark (January 19, 2012), given that the EXNESS trademark has been used extensively by the Complainant since 2011. Moreover, EXNESS is an invented term so it is not conceivable to imagine that the Respondent did not know the mark when it registered the Disputed Domain Name.

Having reviewed the screenshots of the website provided by the Complainant, and in the absence of a timely Response submitted by the Respondent, the Examiner agrees that the

Respondent likely has actual knowledge of the EXNESS trademark demonstrating the bad faith registration, disrupts the Complainant's business and attempts to commercially benefit off the EXNESS trademark in bad faith.

For the foregoing reasons, the Panel finds that the Complainant has satisfied URS 1.2.6.3.

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): EXNESSVIP.WORLD
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: Paddy
Surname: Tam
Date: 2024-03-15