



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

**URS DISPUTE NO. AF11D83E**

Determination DEFAULT

**I. PARTIES**

Complainants: ALPARGATAS, S.A. (BR) and ALPARGATAS EUROPE, S.L.U. (SP)  
Complainants' authorized representative(s): PADIMA TEAM, SLP, Maria Cristina Martinez Tercero (SP)

Respondent: Privacy Guardian, See PrivacyGuardian.org (US)

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

Domain Name(s): HAVAIANASSHOP.ONLINE  
Registry Operator: DotOnline Inc.  
Registrar: NameSilo, LLC

**III. PROCEDURAL HISTORY**

Complaint submitted: 2020-06-03 14:15  
Lock of the domain name(s): 2020-06-04 14:23  
Notice of Complaint: 2020-06-04 21:12  
Default Date: 2020-06-19 00:00  
Notice of Default: 2020-06-19 13:12  
Panel Appointed: 2020-06-19 13:16  
Default Determination issued: 2020-06-19 14:11

**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 a footwear manufacturer in Brazil.

The Complainant is the owner of the trademark HAVAIANAS with several international and national trademark registrations worldwide, including:

- 007156128 "HAVAIANAS" registered and in force for the following goods and services: o Class 25: Clothing, footwear, headgear.

- 008664096 "HAVAIANAS" registered and in force for the following goods and services: o Class 25: Clothing, footwear, headgear.

- 003772431 "havaianas" registered and in force for the following goods and services: o Class 25: Clothing, footwear, headgear.

The official webpage of the company is <https://www.havaianas-store.com>.

The Complainant asserts the following regarding the Respondent:

1. The registered domain names are 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. Registrant has no legitimate right or interest to the domain names [URS 1.2.6.2]
3. The domain names were registered and is being used in bad faith [URS 1.2.6.3]

## **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.

The Examiner notes that Privacy Guardian, See PrivacyGuardian.org is named as the Respondent on the Complaint Form and the Registry Operator confirmed Privacy Guardian, See PrivacyGuardian.org is the Registrant Organization of the Disputed Domain Name. Despite Privacy Guardian, See PrivacyGuardian.org might only be the name of the privacy or proxy service employed by the actual underlying Registrant of the Disputed Domain Name, due to lack of disclosure by the Registrar and the Respondent, the Examiner accepts that Privacy Guardian, See PrivacyGuardian.org is the Respondent of the present case.

In accordance with URS Procedure 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:

<havaianasshop.online> : 2020-05-13

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 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 satisfies that the Complainant is a well-known footwear manufacturer who also owns trademark registrations for HAVAIANAS in different jurisdictions.

The Complainant claims that the Disputed Domain Name is confusingly similar to the HAVAIANAS trademark. The Examiner accepts that the additional term “shop” does not alter the underlying trademark or negate the confusing similarity and it does not sufficiently differentiate the Disputed Domain Names from that trademark. In addition, the Examiner also finds that the “.online” generic top-level domain (“gTLD”) does not reduce the likelihood of confusion.

For the foregoing reasons, the Panel finds 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 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 the Respondent is not an authorized dealer of the Complainant nor has been authorized by the Complainant to use the trademark HAVAIANAS in the Disputed Domain Name or the content of the website. By using the domain name, 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

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.

For the foregoing reasons, the Panel finds 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 domain name are in bad faith.

The Complainant claims the website on the Disputed Domain Name is a fraud page that reproduces the HAVAIANAS trademark and pictures on its domain name without consent. Furthermore, the Respondent seems to use the brand HAVAIANAS to manufacture, distribute, export and/or offer HAVAIANAS products in Spain and in other countries. Furthermore, the

photographs that appear on the website are owned by the Complainant. In addition, the whole webpage is trying to show a legal ecommerce, but the real situation is that the Complainant has not authorized either the domain name or the content of the web site.

Having reviewed the screenshots of the website on the Disputed Domain Name , the Examiner agrees that the Respondent did have actual knowledge of the HAVAIANAS trademark demonstrating the bad faith registration, and disrupts Complainant's business and attempted to commercially benefit off the HAVAIANAS trademark in bad faith.

For the foregoing reasons, the Panel finds 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): HAVAIANASSHOP.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: Paddy

Surname: Tam

Date: 19 June 2020