



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

URS DISPUTE NO. B51132E4

Determination DEFAULT

I. PARTIES

Complainant(s): C.C.V. BEUMANOIR (FR)
Complainant's authorized representative: MIIP - MADE IN IP (FR)

Respondent(s): Domain Admin, Whoisprotection.cc (MY)

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

Domain Name: MORGANBRAND-FR.SHOP
Registry Operator: GMO Registry, Inc.
Registrar: Web Commerce Communications Limited dba WebNic.cc

III. PROCEDURAL HISTORY

Complaint submitted: 2024-04-09 12:23
Lock of the domain name(s): 2024-04-10 19:58
Notice of Complaint: 2024-04-11 09:50
Default Date: 2024-04-26 00:00
Notice of Default: 2024-04-26 10:02
Panel Appointed: 2024-04-26 10:09
Default Determination issued: 2024-04-30 13:02

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 CCV BEAUMANOIR, a company created in 1993 and organized under the laws of France, active in the fashion industry. In particular, the Complainant is the holder of a wide range of trademark registrations around the world, as MORGAN is a renowned brand of women fashion created in the 1990s. MORGAN's fashion products are sold in 166 shops in France and 206 shops globally.

In particular, the Complainant is the owner of the following trademarks:

- French trademark "MORGAN" No. 1441890 registered on May 27, 1988 for the following ICGS classes: 25;
- European Union trademark "MORGAN" No. 014908982 registered on April 19, 2016 for the following ICGS classes: 9, 14, 18, 25.

The Complainant also operates the website under the domain name <morgandeto.fr> registered since February 17, 2006.

The Complainant asserts the following regarding the Respondent:

1. The registered domain name <morganbrand-fr.shop> is identical or confusingly similar to a word mark [URS 1.2.6.1]:

(i) 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 name was registered and is being used in bad faith [URS 1.2.6.3]:

d. 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 identification of the Respondent is hidden.

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:



Despite the Respondent has defaulted, 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 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 a reputed company, especially in France, due to its activity in the fashion industry. The Complainant also owns trademark registrations for "MORGAN" in different jurisdictions all over the world.

The Complainant claims that the Disputed Domain Name is confusingly similar to the "MORGAN" trademark. The Examiner accepts that the Disputed Domain Name includes the Complainant's "MORGAN" trademark in its entirety and additional elements such as generic term "brand", hyphen "-" and geographic term "fr" in the Disputed Domain Name do not alter the underlying trademark or negate the confusing similarity to the "MORGAN" trademark. Moreover, the use of the term "brand" after the trademark "MORGAN" only increases the likelihood of confusion with the Complainant, because the term "brand" is a common term in the Complainant's field of business, while the use of the geographical term "fr" is directly identifying the origin of the original products, as the Complainant is domiciled in France.

In addition, the Examiner also finds that the use of the ".shop" new generic top-level domain ("new gTLD") does not prevent the finding of confusing similarity under the first element. Furthermore, the use of such new gTLD additionally augments the probability of confusion.

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 the Respondent has not been authorized by the Complainant to use the "MORGAN" trademark or any other trademark of the Complainant in the Disputed Domain Name or the content of the website under the Disputed Domain Name. There is no legal or business relationships between the Complainant and the Respondent. The Respondent has no prior rights such as trademarks or legitimate interests in the Disputed Domain Name as he registered it after the Complainant had registered the "MORGAN" trademark. Thus, the Respondent's use is not a legitimate noncommercial or fair use, and is not in connection with a *bona fide* offering of goods or services.

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 Disputed Domain Name in bad faith.

The Complainant claims the website under the Disputed Domain Name is fraud page that was registered to take unfair advantage of the reputation of the Complainant and its trademarks, since the Respondent has intentionally attempted to attract consumers by using the "MORGAN" trademark in the Disputed Domain Name. Furthermore, the Respondent reproduces the general appearance of the Complainant's official website using the Complainant's trademarks throughout the website under the Disputed Domain Name without any authorization of the Complainant.

Although at the time of issuing this Default Determination, the website under the Disputed Domain Name is not operating, the evidence in the case file clearly proves that the website in question was reproducing the Complainant's official website, including depicting its trademarks, logo, pictures, etc., and claiming to offer MORGAN items at bargain prices to attract consumers.

From all the above, it is clear that the Respondent's purpose is to capitalize on the reputation of the Complainant's "MORGAN" trademark by diverting Internet users seeking the Complainant's products to his website for financial gain, intentionally creating a likelihood of confusion with the Complainant's trademark to the source, sponsorship, affiliation, or endorsement of his website and/or the goods offered or promoted through said website.

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

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: MORGANBRAND-FR.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: Ganna
Surname: Prokhorova
Date: 2024-04-30