



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

URS DISPUTE NO. B9D9C508

Determination DEFAULT

I. PARTIES

Complainant(s): Cache Cache (FR)

Complainant's authorized representative: MIIP - MADE IN IP (FR)

Respondent(s): Dynadot Privacy Service, Super Privacy Service LTD c/o Dynadot (US)

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

Domain Name: CACHE-CACHEDISCOUNT.SHOP

Registry Operator: GMO Registry, Inc.

Registrar: Dynadot, LLC

Domain Name: CACHE-CACHEES.SHOP

Registry Operator: GMO Registry, Inc.

Registrar: Dynadot, LLC

Domain Name: CACHE-CACHEOUTLET.SHOP

Registry Operator: GMO Registry, Inc.

Registrar: Dynadot, LLC

Domain Name: CACHECACHEEU.SHOP

Registry Operator: GMO Registry, Inc.

Registrar: Dynadot, LLC

Domain Name: CACHECACHEOUTLET.SHOP

Registry Operator: GMO Registry, Inc.

Registrar: Dynadot, LLC

III. PROCEDURAL HISTORY

Complaint submitted: 2023-11-14 18:21

Lock of the domain name(s): 2023-11-20 11:47

Notice of Complaint: 2023-11-20 15:14

Default Date: 2023-12-05 00:00

Notice of Default: 2023-12-06 18:39

Panel Appointed: 2023-12-06 18:43

Default Determination issued: 2023-12-07 04:51

IV. EXAMINER

Examiner's Name: Igor Motsnyi

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 names 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:

1. The Complainant states it is a part of "GROUPE BEAUMANOIR" and operates a renowned brand of women fashion. "CACHE-CACHE" fashion products are sold in 450 shops in France and in 933 shops globally. The Complainant cites its "CACHE-CACHE" trademarks protected in various jurisdictions and states that its main website is <https://www.cache-cache.fr/>. The Complainant claims the disputed domain names are confusingly similar to its trademark since the disputed domain names reproduce the trademark of the Complainant. The additional elements do not add any distinctiveness to the disputed domain names.
2. The Complainant alleges the Respondent does not have rights or legitimate interest in respect of the disputed domain names. The Respondent has not been authorized by the Complainant to use the trademarks or to register any domain name incorporating the "CACHE CACHE" mark. There is no legal or business relationship between the parties. The Respondent has no prior rights in respect of the disputed domain names. The Complainant claims that the disputed domain names are used in connection with fraudulent websites that reproduce the Complainant's trademarks, logo, pictures and other elements of the Complainant's website.
3. The Complainant alleges that the Respondent has intentionally intended to attract consumers by using its trademark in the disputed domain names. The Respondent copies general appearance of the Complainant's official website and claims to offer "CACHE CACHE" goods at bargain prices to attract customers and for fraudulent purposes. The Respondent presents itself as the Complainant in the "about us" section of the websites and impersonates the Complainant. The Complainant claims that the Respondent when registering the disputed domain names, employed a privacy service to hide its identity. The consumers can also be misled by the phrase "Trusted Store" on the websites by the disputed domain names.

B. Respondent:

The Respondent did not submit a Response.

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.

Multiple Respondents and consolidation:

The Complainant requested to consolidate this URS dispute in respect of all the disputed domain names and the registrants (respondents) based on the following:

- The disputed domain names are registered through the same registrar (“Dynadot”);
- They were registered within a short time period (November 8th - November 10th, 2023);
- There is common information regarding the registrants of the disputed domain names (California, USA, identity protected by a proxy service);
- All the disputed domain names share an identical or nearly identical content which impersonates the Complainant’s website and the websites by the disputed domain names are used as “mirror websites”;
- All the disputed domain names share the same structure by reproducing the Complainant's trademark “CACHE CACHE” (with or without a dash), with the addition of a descriptive word element (OUTLET, DISCOUNT) or a typo following “CACHE CACHE”.

Under par. 1.1.3 of the URS multiple Registrants can be named in one Complaint only if it can be shown that they are in some way related.

The Examiner finds that the Complainant’s request to consolidate this URS dispute in respect of all five (5) disputed domain names and the two Respondents is justified based on the following:

- All five disputed domain names are registered through the same registrar – “Dynadot” and all are registered within a very short time period;
- All the disputed domain names have a similar composition, they fully incorporate the “CACHE CACHE” trademark of the Complainant with the additional element that is either descriptive of Complainant’s business (“outlet”, “discount”) or a geographical term such as “eu” (the European Union) and “es” (Spain);
- All the disputed domain names are registered in the .shop zone;
- All the disputed domain names have very similar whois information;
- Four out of five disputed domain names are used for websites with highly similar content and layout and seem to offer Complainant’s goods for sale and pretend to be associated with the Complainant;
- It appears that the registrants are related in some way and that the disputed domain names are under common control or there is a single registrant;
- The Respondents failed to respond and offer any explanations and/or disagree with the consolidation request.

Based on the above, taking into account par. 1.1.3 of the URS and par. 4.11.2 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“WIPO Overview 3.0”), the Examiner agrees to consolidate this dispute in respect of all five disputed domain names and the two registrants, therefore registrants will be referred to as “Respondent”.

D. Findings of fact:

The disputed domain names were registered between November 08, 2023 and November 10, 2023. The disputed domain names resolve to inactive pages on the date of this Determination (except the disputed domain name <cache-cacheoutlet.shop> that still resolves to an active website), however the Complainant provided evidence that the disputed domain names were used for hosting websites advertising Complainant’s goods and offering Complainant’s goods

for sale and containing pictures of the goods, logos of the Complainant and pictures from its official website as well as a message “TRUSTED STORE” in the bottom of every page, except the disputed domain name <cachecacheeu.shop> for which the Complainant provided a screenshot of the page with an error message – “ERROR 1000”.

The Complainant relies on a number of registered trademarks with the “CACHE CACHE” word element including the following marks:

- the EU trademark No. 017449646 “CACHE CACHE” (word + device), filed on November 08, 2017, registered on March 28, 2018 and
- the International Registration under the Madrid system No. 1103397 “CACHE CACHE” (word), registered on April 22, 2011 and effective *inter alia* in Egypt, the EU, Switzerland and Norway.

The Complainant provided evidence that its trademarks are in use, including screenshots of its official website and a link to the Complainant’s website.

E. Reasoning:

1. The domain names are identical or confusingly similar to a word mark

The Complainant provided proof of registered word trademarks “CACHE CACHE”, including a trademark with the word element “CACHE CACHE” and proof of use of its trademarks.

All the disputed domain names include the Complainant’s trademark with the addition of descriptive or geographical elements such as “outlet”, “discount”, “es” and “eu”.

As provided in the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“WIPO Overview 3.0”), par.1.7: *“It is well accepted that the first element functions primarily as a standing requirement. This test typically involves a side-by-side comparison of the domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name. While each case is judged on its own merits, in cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing.”*

All the disputed domain names incorporate the “CACHE CACHE” mark of the Complainant and the Complainant’s mark is clearly recognizable within the disputed domain names. Additional elements do not affect confusing similarity in the circumstances of this case. The domain zone <.shop> actually increases confusion as it is related to Complainant’s activity.

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 names

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/her rights or legitimate interests.

The Complainant has made a prima facie case and the Respondent failed to respond.

The Respondent is not authorized by the Complainant to use its trademarks in the disputed domain names and the parties are not related.

According to the provided evidence, the disputed domain names (four out of five) are or were previously used for websites advertising Complainant’s goods or offering them for sale.

The disputed domain name <cachecacheeu.shop> resolved to a page with an error message.

The Respondent, therefore, can be potentially considered as an unauthorized reseller and unauthorized resellers and distributors may be making a bona fide offering of goods and



services and thus may have a legitimate interest in domain names under certain circumstances as provided by the “Okidata Test” (see *Okidata Americas, Inc. v. ASD, Inc., WIPO Case No. D2001-0903*, <okidataparts.com>) and par. 2.8.1 of WIPO Overview 3.0.

The Respondent in this case fails to fulfill the “Okidata Test” requirements, namely the Respondent fails to “accurately and prominently disclose the registrant’s relationship with the trademark holder”. On the contrary, the Respondent by using the “Trusted Store” phrase as well as logos and pictures from the Complainant’s own website, creates a false impression of affiliation with the Complainant or endorsement by the Complainant.

Besides, the Respondent by registering five (5) domain names that incorporate the Complainant’s mark, “cornered the market” in domain names that reflect the trademark, thus failing another “Okidata” criterion. The Respondent attempts to impersonate the Complainant and impersonation is not fair and does not create legitimate right or legitimate interest.

Based on the above, the Examiner finds that the Respondent lacks any legitimate right or legitimate interest with respect to the disputed domain names as per the requirements set forth under Paragraph 1.2.6.2. of the URS Procedure.

3. The domain names were registered and are being used in bad faith

The Examiner finds that the Complainant provided clear and convincing evidence of Respondent’s bad faith registration and use of the disputed domain names.

As provided in WIPO Overview 3.0, par. 3.1: “*bad faith is broadly understood to occur where a respondent takes unfair advantage of or otherwise abuses a complainant’s mark*” and the following evidence *inter alia* indicates bad faith registration and use: (i) actual confusion, (ii) seeking to cause confusion, (iii) the lack of a respondent’s own rights to or legitimate interests in a domain name and (iv) absence of any conceivable good faith use (par. 3.1.4 of WIPO Overview 3.0).

The Examiner finds bad faith registration and use of all the disputed domain names based on the following:

- date of registration of the disputed domain names and the nature of the disputed domain names – all registered many years after registration of the Complainant’s trademarks and incorporating the Complainant’s mark with the addition of descriptive/geographical terms;
- the Respondent is seeking to cause confusion by using the disputed domain names (four out of five) for advertising and offering the goods of the Complainant for sale and using logos and pictures from the Complainant’s website and by placing “Trusted Store” at the bottom of webpages. There is no evidence of active use of the disputed domain name <cachecacheu.shop>, however it fits the general pattern of Respondent’s registration and even passive holding in these circumstances evidences bad faith (see par. 3.3 of WIPO Overview 3.0);
- the lack of Respondent’s own legitimate rights or legitimate interests in the disputed domain names and absence of any conceivable good faith use under the circumstances of this dispute taking into account evidence provided by the Complainant, in particular “whois data” of the disputed domain names, the screenshots of the Complainant’s own website and screenshots of the websites by the disputed domain names and the composition of the disputed domain names;
- the fact that the Respondent registered five disputed domain names all including Complainant’s “CACHE CACHE” trademark within a very short period of time represents a pattern of conduct (see 3.1.2 of WIPO Overview 3.0).

Based on the above, the Examiner finds that the Respondent has registered the disputed domain names in order to prevent the trademark holder from reflecting the mark in

corresponding domain names, since it has engaged in a pattern of such conduct and by using the disputed domain names the Respondent has intentionally attempted to attract for commercial gain, Internet users to its websites by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of Respondent's website (see also previous URS determinations, e.g. URS DISPUTE NO. 9A037A5B: "*The Respondent reproduced the general appearance of the Complainant's official website and claims to offer CAROLL goods at bargain prices in order to attract the consumers...*" and URS DISPUTE NO. FA40B54D: "*till recently, the disputed domain name was used to host a website impersonating the Complainant*"). Therefore, the Examiner finds that the requirements set forth under Paragraph 1.2.6.3. of the URS Procedure have been satisfied by the Complainant.

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: CACHE-CACHEDISCOUNT.SHOP
Suspends for the balance of the registration period

Domain Name: CACHE-CACHEES.SHOP
Suspends for the balance of the registration period

Domain Name: CACHE-CACHEOUTLET.SHOP
Suspends for the balance of the registration period

Domain Name: CACHECACHEEU.SHOP
Suspends for the balance of the registration period

Domain Name: CACHECACHEOUTLET.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: Igor
Surname: Motsnyi
Date: 2023-12-07