



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

**URS DISPUTE NO. C0B1C6B6**

Determination DEFAULT

**I. PARTIES**

Complainant(s): Futurice Oy (FI)

Respondent(s): Privacy Protection (US)

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

Domain Name(s): FUTURICE.XYZ  
Registry Operator: XYZ.COM, LLC  
Registrar: Sav.com, LLC

**III. PROCEDURAL HISTORY**

Complaint submitted: 2022-02-21 17:09  
Lock of the domain name(s): 2022-02-22 22:49  
Notice of Complaint: 2022-02-23 10:01  
Default Date: 2022-03-10 00:00  
Notice of Default: 2022-03-10 14:49  
Panel Appointed: 2022-03-10 14:56  
Default Determination issued: 2022-03-12 19:41

**IV. EXAMINER**

Examiner's Name: Carrie Shang

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 a company incorporated in Finland, owner of the trademark "FUTURICE", registered with (i) European Union Intellectual Property Office (EUIPO) on 1 December 2017 in classes 9, 35, 41 and 42 with filing number 017097478, and (ii) Intellectual Property Office (UK) on 6 December 2019 in classes 9, 35, 41 and 42 with trademark number UK00003429209.

The Complainant contends that the disputed domain name includes its trademark in its entirety with the only difference being the addition of the TLD ".xyz" and that the Respondent has no other rights or interest in the disputed domain name than reselling or renting it.

## **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 Procedure Paragraph 9(d), in absence of a Response, the language of the Determination shall be English.

## **C. Findings of fact:**

The disputed domain name was registered on 10 February 2022 by a registrant whose identity is protected by privacy protection. The disputed domain name resolves to a website offering the disputed domain name for sale for a valuable consideration of USD 788 which clearly exceeds the normal registration fee of the TLD ".xyz".

The Complainant, a company incorporated in Finland, is owner of the trademark "FUTURICE", registered with (i) European Union Intellectual Property Office (EUIPO) on 1 December 2017 in classes 9, 35, 41 and 42 with filing number 017097478, and (ii) Intellectual Property Office (UK) on 6 December 2019 in classes 9, 35, 41 and 42 with trademark number UK00003429209.

## **E. Reasoning:**

According to Paragraph 13 of the URS Rules, the Examiner shall make a Determination of a Complaint in accordance with the URS Procedure, the URS Rules and any rules and principles of law that it deems applicable.

Even though the Respondent has defaulted, URS Procedure 1.2.6, requires 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.

For the Complainant to succeed, it must establish that each of the three following conditions under 1.2.6 URS Procedure are satisfied:

- That the disputed domain name is identical or confusingly similar to a word mark;
- That the Registrant has no legitimate right or interest to the disputed domain name;
- That the disputed domain name was registered and is being used in bad faith.



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

The Complainant contends that the disputed domain name is identical or confusingly similar to a word mark for which the Complainant holds a valid national or regional registration and that is in current use. The Complainant has provided sufficient evidence to prove its existing ownership to the registered trademark “FUTURICE”.

In the present case the disputed domain name fully incorporates the Complainant’s trademark and is identical to the Complainant’s registered trademark. The TLD “.xyz” should not impact the finding of identity and/or similarity.

Therefore, 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 name(s)**

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 rights or legitimate interests.

According to the Complaint, which has remained unchallenged, the Complainant has not authorized the Respondent’s use of the trademark “FUTURICE”. The Respondent, which has no link of any nature with the Complainant, does not seem to have legitimate interests or rights in the registration and in the use of the disputed domain name. Indeed, the content of the associated website as well as the WHOIS database details do not indicate that the Respondent’s name is composed of the term “FUTURICE”, that the Respondent is commonly known or runs a business under this name or has rights on the name “FUTURICE”.

Furthermore, based on *prima facie* evidence, the Respondent has not been authorized by the Complainant to use the name “FUTURICE” and there is no business relationship between them.

It is acknowledged that once the Panel finds such *prima facie* case is made, the burden of production shifts to the Respondent to come forward with appropriate allegations or evidence demonstrating rights or legitimate interests in the disputed domain name. In the case at issue the Respondent decided not to submit any Response or evidence of any concrete circumstances which could demonstrate, pursuant to the URS, that it has any rights or legitimate interests in the disputed domain name.

Under these circumstances, the Examiner finds that the requirements of URS Procedure 1.2.6.2 have been satisfied.

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

According to URS Procedure 1.2.6.3, the Complainant must thirdly establish that the disputed domain name has been registered and is being used in bad faith. URS Procedure 1.2.6.3 identifies non-exclusive list of circumstances that Examiner could consider as constituting bad faith.

Noting that the scenarios of bad faith use and registration are non-exhaustive and merely illustrative, even where a complainant may not be able to demonstrate the literal or verbatim application of one of the above scenarios, evidence demonstrating that a respondent seeks to take unfair advantage of, abuse, or otherwise engage in behavior detrimental to the complainant's trademark would also satisfy the complainant's burden.

The below circumstance surrounding the disputed domain name's registration and use confirm the findings that the Respondent has registered and is using the disputed domain names in bad faith:

The disputed domain name is associated with a website on which the Respondent's only purpose is to resell or rent the domain name for a valuable consideration in excess of the Respondent's out-of-pocket costs directly related to the disputed domain name.

The Respondent did not provide any formal response with conceivable explanation of its behavior within these proceedings.

In the light of the above, the Panel finds that the disputed domain name has been registered and is being used in bad faith pursuant URS Procedure 1.2.6.3.

## **VIII. DETERMINATION**

### **A. Demonstration of URS elements**

Demonstrated

### **B. Complaint and remedy**

Complaint: Accepts

Domain Name(s): FUTURICE.XYZ 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: Carrie

Surname: Shang

Date: 2022-03-12