



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

URS DISPUTE NO. C64BEC70

Determination DEFAULT

I. PARTIES

Complainant: C.G. & HIJOS, S.L. (SP)

Complainant's authorized representative(s): PADIMA TEAM, SLP, Maria Cristina Martinez Tercero (SP)

Respondent(s): WhoisGuard Protected, WhoisGuard, Inc. (PA)

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

Domain Name(s): WONDERSREBAJA.ONLINE

Registry Operator: DotOnline, Inc.

Registrar(s): Namecheap, Inc.

III. PROCEDURAL HISTORY

Complaint submitted: 2020-07-30 15:45

Lock of the domain name(s): 2020-08-04 13:55

Notice of Complaint: 2020-08-04 20:15

Default Date: 2020-08-19 00:00

Notice of Default: 2020-08-19 09:49

Panel Appointed: 2020-08-19 09:53

Default Determination issued: 2020-08-19 13:38

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, C.G. & HIJOS, S.L., is a footwear manufacturer domiciled in Spain, which is the owner of several WONDERS trademarks as below:

- EUTM n°017923926 "WONDERS" registered and in force for the following goods and services:

Class 18: Leather and imitation leather; Animal skins, hides; Whips; Saddlery; Casual bags; Sport bags; Purses; Briefcases; Backpacks; Carrying cases; Trunks(luggage); Suitcases; Parasols; Umbrellas; Walking sticks.

Class 25: Gowns; Footgear; Headgear; Waist belts.

Class 35: Advertising; Business management; Business administration; Office functions; Import and export, wholesaling and retailing in shops and wholesaling and retailing via global communications networks of leather and imitations of leather, animal skins and hides, whips, saddlery, handbags, bags for sports, purses, wallets, backpacks, briefcases, trunks, travelling bags, parasols, umbrellas, walking sticks, clothing, footwear, headgear, belts; Management assistance for franchised businesses.

- EUTM n°017923377 "WONDERS" registered and in force for the following goods and services:

Class 18: Leather and imitation leather; Animal skins, hides; Whips; Saddlery; Casual bags; Sport bags; Purses; Briefcases; Backpacks; Carrying cases; Trunks(luggage); Suitcases; Parasols; Umbrellas; Walking sticks.

Class 25: Gowns; Footgear; Headgear; Waist belts.

Class 35: Advertising; Business management; Business administration; Office functions; Import and export, wholesaling and retailing in shops and wholesaling and retailing via global communications networks of leather and imitations of leather, animal skins and hides, whips, saddlery, handbags, bags for sports, purses, wallets, backpacks, briefcases, trunks, travelling bags, parasols, umbrellas, walking sticks, clothing, footwear, headgear, belts; Management assistance for franchised businesses.

The official webpage of the company is <https://wonders.com>.

The Complainant asserts the following regarding the Respondent:

1. The registered domain name is identical or confusingly similar to a word or mark [URS 1.2.6.1]: for which the Complainant holds several international registrations and that are in current use.
2. Registrant 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]

B. Respondent:

The Respondent did not file 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 Procedure Paragraph 9(d), in absence of a Response, the language of the Determination shall be English.

D. Findings of fact:

The Examiner notes that WhoisGuard, Inc. is named as the Respondent on the Complaint Form. Despite WhoisGuard, Inc. might only be the name of the privacy or proxy service employed by the actual underlying Registrant of the Disputed Domain Name, due to it is the only publicly accessible information and lack of additional input from the Registry Operator, Registrar or the Respondent, the Examiner accepts that WhoisGuard, Inc. is the Respondent of the present case.

The Registration Date of the Disputed Domain Name is 2020-07-18.

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 is 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 WONDERS with the European Union Intellectual Property Office.

The Complainant claims that the Disputed Domain Name is confusingly similar to the WONDERS trademark and the additional generic term “rebaja”, which could mean “sale” in Spanish, further increases the likelihood of confusion. The Examiner accepts that the additional generic term does not alter the underlying trademark or negate the confusing similarity and it does not sufficiently differentiate the Disputed Domain Name 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, 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 authorized by the Complainant to use the trademark WONDERS in the Disputed Domain Name or to include the Complainant’s logo and pictures on the website resolved by the Disputed Domain Name.

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 that the Respondent has demonstrated actual knowledge of the WONDERS trademark by reproducing the trademark on the website and capitalizes on the reputation of the WONDERS trademark by creating a copycat ecommerce site. Furthermore, the Complainant also contends that the Disputed Domain Name and the website created by the Respondent are indeed a fraudulent scheme to the consumers of the Complainant.

Having reviewed the screenshots of the website on the Disputed Domain Name, the Examiner agrees that the Respondent did have actual knowledge of the WONDERS trademark demonstrating the bad faith registration, and disrupts Complainant's business and attempted to commercially benefit off the WONDERS 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): WONDERSREBAJA.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: 2020-08-19