



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

URS DISPUTE NO. CCB47CA5

Determination DEFAULT

I. PARTIES

Complainant(s): Alibaba Group Holding Limited
Complainant's authorized representative: Convey Srl

Respondent(s): Privacy Guardian (PrivacyGuardian.org llc)

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

Domain Name(s): alibaba168.shop, alibaba66.shop, alibaba77.shop, alibaba88.shop,
alibaba999.shop
Registry Operator(s): GMO Registry, Inc.
Registrar: NameSilo LLC

III. PROCEDURAL HISTORY

Complaint submitted: 4 December 2024
Lock of the domain name(s): 16 January 2025
Notice of Complaint: 24 January 2025
Default Date: 7 February 2025
Notice of Default: 10 February 2025
Panel Appointed: 10 February 2025
Default Determination issued: 12 February 2025

IV. EXAMINER

Examiner's Name: The Honorable Neil Anthony Brown KC

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 made the following contentions.

1. The Complainant is an internationally operating corporation engaged in the global wholesale trade and the provision of related goods and services and it has been so engaged since 1999.

2. The Complainant is the owner of various trademark registrations for ALIBABA as word and design marks including the following:

(a) the international trademark for ALIBABA registered with the World Intellectual Property Organization (“WIPO”) as Registration number 4820371, registered on September 29, 2015; and

(b) the international trademark for ALIBABA registered with WIPO as Registration number 5969946, registered on January 28, 2020

and other registrations for ALIBABA and derivatives (collectively “the ALIBABA trademark”).

3. The Respondent registered the following domain names on the following dates with respect to each such domain name:

(a) <alibaba168.shop> on April 15, 2024;

(b) <alibaba66.shop> on April 17, 2024;

(c) <alibaba77.shop> on April 15, 2024;

(d) <alibaba88.shop> on April 15, 2024;

(e) <alibaba999.shop> on April 15, 2024;

(collectively “the disputed domain names”).

4. The disputed domain names are confusingly similar to the ALIBABA trademark, as they each include the entirety of the ALIBABA trademark, a number and the “.shop” generic Top Level Domain.

5. The Respondent does not have a right or legitimate interest in any of the disputed domain names as:

(a) the Complainant has not given the Respondent any licence or authorization to use the ALIBABA trademark in a domain name or by any other means;

(b) the Respondent is not commonly known by any of the disputed domain names;

(c) the Respondent has not used any of the disputed domain names for a *bona fide* offering of goods or services; and



(d) the Respondent has caused the disputed domain names to resolve to gambling websites.

6. The disputed domain names were registered and are being used in bad faith as:

- (a) the Complainant has a worldwide reputation in its commercial sector;
- (b) the Respondent had actual notice of the Complainant and the ALIBABA trademark when it registered the disputed domain names;
- (c) the Respondent has caused the disputed domain names to resolve to gambling websites; and
- (d) all of the acts, facts, matters and circumstances to be revealed by the evidence will show that the Respondent registered and used the dispute domain names in bad faith.

B. Respondent:

The Respondent did not file a Response in this proceeding and thus did not refute any of the contentions of the Complainant.

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:

The evidence has established that the disputed domain names, articulated above, were registered on their respective dates.

The evidence has established that the Complainant registered each of the following trademarks on its respective registration date:

- (a) the international trademark for ALIBABA registered through the World Intellectual Property Organization (“WIPO”) as Registration number 4820371, registered on September 29, 2015; and
- (b) the international trademark for ALIBABA registered through WIPO as Registration number 5969946, registered on January 28, 2020;

and other registrations for ALIBABA and derivatives (collectively “the ALIBABA trademark”).

E. Reasoning:

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

URS Procedure 1.2.6.1 provides that the Complainant must prove that the relevant 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 evidence has established that the Complainant provides its goods and services by the ALIBABA trademark. In particular, the Complainant has established by evidence that the Examiner accepts that it is the registered owner of the following trademarks on their respective registration dates:

(a) the international trademark for ALIBABA registered through the World Intellectual Property Organization (“WIPO”) as Registration number 4820371, registered on September 29, 2015; and

(b) the international trademark for ALIBABA registered through WIPO as Registration number 5969946, registered on January 28, 2020;

and other registrations for ALIBABA and derivatives (collectively “the ALIBABA trademarks”).

Both of the foregoing ALIBABA trademarks are stated on their certificates of registration to be word marks and as also having been registered with the United States Patent and Trademark Office and hence they are valid registrations.

The aforesaid registrations have been proved by documentary evidence that the Examiner has inspected and finds to be in order.

The evidence has also established that the ALIBABA trademarks are in current use.

The evidence has established that that the disputed domain names, articulated above, were registered by the Respondent on their respective dates. In that regard, the Examiner accepts the submission of the Complainant that although the Complaint relates to more than one domain name, all of the domain names are under common control and are managed by the same domain name holder, as is seen from the evidence that they all resolve to gambling sites.

Each of the disputed domain names is confusingly similar to the ALIBABA trademark as it includes the trademark in its entirety. When a domain name includes a trademark, it is generally accepted that the domain name is confusingly similar to the trademark as internet users would naturally conclude that the domain name is invoking the trademark. That is so in the present case. The disputed domain names also include one of a series of numbers set out above and the generic Top Level Domain “.shop”. Minor additions to a trademark such as numbers cannot weaken the dominant impression that the domain name is confusingly similar to the trademark and domain name extensions are not taken into account as all domain names must have such an extension which does not affect the interpretation given to a domain name.



The Examiner therefore finds that each of the disputed domain names is confusingly similar to the ALIBABA trademark.

The Complainant has thus proved the first of the three elements that it must establish under the URS Determination.

2. Respondent has no rights or legitimate interests to the domain name(s)

URS Procedure 1.2.6.2 provides that the Complainant must establish that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

The Examiner finds that the Complainant has made out this element on each of the grounds that it has relied on, namely:

(a) the Complainant has not given the Respondent any licence or authorization to use the ALIBABA trademark in a domain name or by any other means; this has been established on the evidence that the Complainant has not given the Respondent any such licence or authorization; thus it could not be said that the Complainant had given any sort of consent to its trademark being used for inclusion in the disputed domain names or for any other use;

(b) the Respondent is not commonly known by any of the disputed domain names; there is no evidence that the Respondent is commonly known by any of the disputed domain names or by any name other than its own;

(c) the Respondent has not used any of the disputed domain names for a *bona fide* offering of goods or services within the meaning of the URS Procedure; it is not *bona fide* in any sense to take another party's trademark and include it in a domain name without permission; nor do the domain names offer any goods or services other than the unauthorized services offered by means of the offending websites to which the domain names resolve; indeed there is nothing *bona fide* about the conduct of the Respondent revealed by the evidence and it is more akin to being *mala fide* as it is obviously motivated by an illegitimate intention to besmirch the Complainant's international name and goodwill by causing the domain names to resolve to gambling websites; and

(d) as just noted, it is particularly egregious that the Respondent has caused the disputed domain names to resolve to gambling websites; this has been established by the evidence and in particular by Annex 2 to the Complaint which shows screenshots from the resolving websites; it is clear that they are gambling sites because of the names of the sites, their content and illustration and the use of words such as "slot on line" and "casino"; moreover, the Complainant's name is famous and prestigious and it is both demeaning and a tarnishment of the trademark to see it used for such a purpose as a gambling site, especially when the implication is that the gambling site is being so used by the Complainant or with its consent.

The Examiner adds that there is no evidence that could conceivably show that the Respondent could make out a right or legitimate interest on any other ground.

Accordingly, the evidence shows that the Respondent has no such right or legitimate interest.

The Complainant has thus established the second of the three elements that it must prove.

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

URS Procedure 1.2.6.3 provides that the Complainant must establish that the disputed domain names have been registered and are being used in bad faith.

The Examiner finds that the Complainant has established this fact on all of the grounds relied on, namely:

- (a) the Complainant has a worldwide reputation in its commercial sector; the Complainant and its trademarks are famous and ALIBABA is a household name with a prestigious reputation; thus there could be no good faith registration and use of the trademark in a domain name or anywhere else without the permission of the Complainant as trademark owner; thus, any registration and use of a domain name encompassing the trademark without permission must be in bad faith because, apart from anything else it is an infringement of the trademark; to add to the trademark the foregoing numbers, to register the domain names in the “.shop” and extension and to cause them to resolve to gambling sites can only cement and emphasize the conclusion that this has been done in bad faith;
- (b) the Respondent had actual notice of the Complainant and the ALIBABA trademark when it registered the disputed domain names; that is the only conclusion that can be reached from the facts that the domain names were all registered in April 2024, by which time the trademarks had been registered for several years, namely in 2015 and 2020; moreover, the trademark was and is so well known that it is impossible to accept that the Respondent did not have actual notice of the famous ALIBABA mark by the time it registered the domain names; this element has been universally accepted as indicating that a domain name has been registered in bad faith and the Examiner can find no reason why it should not reach the same conclusion in this proceeding;
- (c) despite the Complainant prestigious reputation, the Respondent has caused the disputed domain names to resolve to gambling websites which is demeaning and damaging to the reputation of the Complainant and its trademarks and an imputation that the Complainant has started to engage in, or approved of its name being used in connection with, gambling; and
- (d) all of the acts, facts, matters and circumstances that have been revealed by the evidence have shown that the Respondent registered and used the dispute domain names in bad faith.



Moreover,

- (e) the evidence shows that the Respondent, by using the domain names, 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, within the meaning of URS Procedure 1.2.6.3(d);
- (f) the domain names are confusingly similar to the trademark, implying that the Complainant has consented to its trademark being used in connection with gambling, which it has not; and
- (g) the Respondent has not filed a Response and is in default and has thus not given any alternative explanation for facts which clearly shows that it has registered and used the domain names in bad faith.

4. Abusive Complaint

The Examiner finds that the Complaint was neither abusive nor did it contain deliberate material falsehoods.

VIII. DETERMINATION

A. Demonstration of URS elements

Demonstrated

B. Complaint and remedy

Complaint: Accepts

Domain Name(s): alibaba168.shop, alibaba66.shop, alibaba77.shop, alibaba88.shop, alibaba999.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

A handwritten signature in black ink, appearing to read "N.A. Brown", written in a cursive style.

Honorable Neil Anthony Brown, K.C.
Arbitrator

Name: The Honorable Neil Anthony Brown KC

Surname: Brown

Date: 12 February 2025