



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

**URS DISPUTE NO. D80C2113**

Determination DEFAULT

**I. PARTIES**

Complainant: Seven S.p.A.  
Complainant's authorized representative(s): Studio SINDICO E ASSOCIATE,  
Domenico Sindico, IT

Respondent(s): WhoisGuard Protected, WhoisGuard, Inc., PA;  
Privacy Guardian, See PrivacyGuardian.org, US

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

Domain Name(s): MYSEVENZAINO.ONLINE; SEVENZAINI.ONLINE  
Registry Operator: DotOnline Inc.  
Registrar(s): NameCheap, Inc. and NameSilo, LLC

**III. PROCEDURAL HISTORY**

Complaint submitted: 2020-06-01 11:45  
Lock of the domain name(s): 2020-06-02 03:46  
Notice of Complaint: 2020-06-02 22:31  
Default Date: 2020-06-17 00:00  
Notice of Default: 2020-06-17 14:21  
Panel Appointed: 2020-06-17 14:38  
Default Determination issued: 2020-06-17 16:00

**IV. EXAMINER**

Examiner's Name: Guido Maffei

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 is an Italian company, holder of many trademarks protecting the word SEVEN, in classes 18 and 16 all over the world. The mark Seven has been used extensively in Italy and is one of the most famous brands in the sector of backpacks and school bags.

In Italy, SEVEN is a well-known trademark as explicitly recognized by a judgment of the Italian Court of Turin filed by the Complainant together with the Complaint.

According to the Complainant's view, the turnover realized with the SEVEN mark is also related to e-commerce channels and sales made on the official website [www.seven.eu](http://www.seven.eu). On this website, potential customers can view all models and offers and then proceed with the purchase.

The Complainant owns several trademarks SEVEN and, in particular

- European Union Registration no. 8728651 - SEVEN (word) registered on December 2, 2009 in classes 16 and 18;
- Italian Registration no. 1379395 - SEVEN (word) registered on November 29, 2010 in classes 16 and 18.

The Complainant contends that the above trademarks were registered before the registration of the domain names in dispute.

According to the Complainant's view the domain names in dispute are highly similar to the prior rights owned by the Complainant on SEVEN. This in consideration of the fact that both <sevenzaini.online> and <mysevenzaino.online> include the well-known trademark SEVEN.

Furthermore, the Complainant states that he has never authorized any third party to register domain names referring or including the mark SEVEN

Finally it is the Complainant's view that the registration and use of both <sevenzaini.online> and <mysevenzaino.online> are in bad faith since the content of the websites associated with the domain names in dispute resolve in an abusive copies of the Complainant's official website dedicated to the offering and distribution of backpacks and school bags bearing the well-known SEVEN trademark.

### **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.

Multiple Respondents: if there is more than one Respondent, as in the present case, the Examiner shall verify if the Complainant has adequately described and proved the relationship between them, which justifies them being named in a common Complaint.



The first Respondent is PrivacyGuardian.Org. This is a privacy service which allows the registrant of the disputed domain name to hide its identity. The second Respondent is WhoisGuard, Inc. which offers the same privacy service.

In this situation the fact that, as noted by the Complainant,

- (i) the registration of the two domain names was made on dates very close to each other and
- (ii) the content of the two websites is almost identical and consists of abusive copies of the Complainant's official website,

clearly justify that both respondents are jointly named in a common Complaint since it is possible that there is the same person (effective registrant using two different privacy services) behind this behaviour or connected persons.

#### **D. Findings of fact:**

The disputed domain names were registered on May 1, 2020 and May 15, 2020

The Complainant has demonstrated to be the owner of the following word trademarks for SEVEN:

- European Union Registration no. 8728651 - SEVEN (word) registered on December 2, 2009 in classes 16 and 18;
- Italian Registration no. 1379395 - SEVEN (word) registered on November 29, 2010 in classes 16 and 18.

#### **E. Reasoning:**

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

The Complainant has established that it has rights in the trademark SEVEN at least since 2009. The Complainant's trademark, therefore, was registered well before the registration of the disputed domain names (May 2020). The disputed domain names are composed of (i) the generic possessive pronoun "my" (ii) the wording "zaino" or "zaini" meaning backpack or backpacks (iii) the Complainant's trademark SEVEN and (iv) the top-level domain name ".online". The wording "my" is generic. The word "zaino" (or "zaini") is also generic in the case at hand especially in consideration of the fact that the Complainant distributes backpacks. In consideration of the above, it is clear that the only distinctive part of the disputed domain names is the Complainant's mark SEVEN. Adding generic words to this mark does not prevent the disputed domain names being confusingly similar to the Complainant's trademark SEVEN. In addition, it must be considered that the relevant comparison to be made is with the first portion of the domain names only (i.e., "mysevenzaino" or "sevenzaini"), as it is well-established that the top-level domain name (in this case .online) should be disregarded for this purpose (see *Playboy Enterprises International, Inc. v. John Taxiarchos*, WIPO Case No. D2006-0561; *Burberry Limited v. Carlos Lim*, WIPO Case No. D2011-0344; *Magnum Piercing, Inc. v. The Mudjackers and Garwood S. Wilson, Sr.*, WIPO Case No. D2000-1525). Therefore, the Examiner finds that the requirement set forth under Paragraph 1.2.6.1. of the URS Procedure has been satisfied.

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

The Complainant provided prima facie evidence that the Respondent does not have rights or legitimate interests in respect of the disputed domain name as it was never authorized to use it by the Complainant. The Respondent, in the absence of any response, has not shown any facts or element to justify prior rights or legitimate interests in the disputed domain names. Based on the above, the Examiner finds that the Respondent lacks any rights or legitimate interests with respect to the disputed domain names as per the requirement set forth under Paragraph 1.2.6.2. of the URS Procedure.

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

The Respondent registered the disputed domain names years after the use and registration of the SEVEN mark by the Complainant. In consideration of the reputation achieved by SEVEN it is clear that the Respondent was surely aware of the Complainant's trademark when he registered the domain names in dispute.

Moreover, the Respondent appears to have attempted to benefit commercially from the appropriation of the SEVEN mark in the disputed domain names. The use made by Respondent of the famous mark SEVEN, which is well-known, in the backpacks sector, clearly indicates that the disputed domain names were chosen by the Respondent to take advantage of the Complainant's mark reputation. This finding leads to the obvious conclusion that the disputed domain name has been registered in bad faith (Research In Motion Limited v. Privacy Locked LLC/Nat Collicot - WIPO Case No. D2009-0320; The Gap, Inc. v. Deng Youqian - WIPO Case No. D2009-0113; AXA S.A. v. P.A. van der Wees - WIPO Case No. D2009-0206; BHP Billiton Innovation v. Ravindra Bala - WIPO Case No. D2008-1059).

The Examiner also finds that, by creating abusive copies of Complainant's official website connected to the domain names in dispute, the Respondent has intentionally attempted to attract Internet users to its website for commercial gain, by causing a likelihood of confusion with the trademark SEVEN as to the source, sponsorship, affiliation or endorsement of its website and the products promoted therein. This is a clear use in bad faith of the domain names in dispute.

Therefore, the Examiner finds that the requirement set forth under Paragraph 1.2.6.3. of the URS Procedure has 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(s):

MYSEVENZAINO.ONLINE Suspends for the balance of the registration period



SEVENZAINI.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: Guido

Surname: Maffei

Date: 17 June 2020