



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

URS DISPUTE NO. DCB36B42

Determination DEFAULT

I. PARTIES

Complainant(s): Deezer (FR)

Complainant(s)'s authorized representative(s): Domgate (FR)

Respondent(s): Michel Barthes, Izidomain (FR)

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

Domain Name(s): DEEZER.DIGITAL

Registry Operator: Binky Moon, LLC

Registrar: Netim SARL

III. PROCEDURAL HISTORY

Complaint submitted: 2022-05-05 13:51

Lock of the domain name(s): 2022-05-10 16:23

Notice of Complaint: 2022-05-10 19:29

Default Date: 2022-05-25 00:00

Notice of Default: 2022-05-25 12:18

Panel Appointed: 2022-05-25 12:19

Default Determination issued: 2022-05-27 08:00

IV. EXAMINER

Examiner's Name: Arthur Fouré

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 a French online music streaming service company. The Complainant holds rights on the DEEZER trademarks, and notably the trademark of the European Union DEEZER, registered on 09 October 2009 under No.8650079, duly renewed and designating services in international classes 35, 38 and 41.

The Complainant asserts that it widely uses its trademark in connection with music streaming services, and that its trademark is well-known worldwide.

The Complainant asserts the following:

1. The registered domain name is identical or confusingly similar to a word mark [URS 1.2.6.1]: for which the Complainant holds a valid national or regional registration and that is 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 sent an email to the dispute resolution provider on 11 May 2022 in which the Respondent was available to transfer the domain name to the Complainant. However, the Respondent did not file an administratively compliant 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.

D. Findings of fact:

The disputed Domain Name is **deezer.digital**, registered on 18 April 2022.

The disputed Domain Name has been used in connection with a parking page of pay-per-click commercial links.

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

[URS 1.2.6.1] The registered domain name(s) is/are identical or confusingly similar to a word mark:

- i. for which the Complainant holds a valid national or regional registration that is in current use; or
- ii. that has been validated through court proceedings; or
- iii. that is specifically protected by a statute or treaty in effect at the time the URS complaint is filed.

[URS 1.2.6.2] Registrant has no legitimate right or interest to the domain name.

[URS 1.2.6.3.] The domain was registered and is being used in bad faith.



E. Reasoning:

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

The Complainant presented consistent evidence of ownership and long-lasting extensive use of the DEEZER mark in jurisdictions throughout the world.

The disputed domain name **deezer.digital** reproduces the DEEZER trademark in its entirety without the addition or removal of any letter or word. The addition of the gTLD **.digital** does not prevent the finding that the domain name is identical or similar to the Complainant's mark under the first element.

Given the above, the Examiner finds that the Complainant has met the requirements under the first element of the Policy.

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

The Complainant asserts that it has not authorized the Respondent to use its DEEZER mark. Furthermore, the evidence on record shows no evidence that Respondent is commonly known by the Domain Name or making any bona fide offering of goods or services.

Since no Response was submitted in this proceeding, the Respondent has failed to justify any rights or legitimate interests in the domain name in dispute.

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.

The Examiner finds that Complainant has satisfied URS 1.2.6.2 as the Respondent has no legitimate rights or interest to the domain name.

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

Having reviewed the evidence available on the record, the Examiner is of the view that the Respondent registered and used the disputed domain name in an attempt to make commercial gain, either from the sale of the domain or from traffic-generated revenue.

In the absence of any explanation from the Respondent, the Examiner agrees that the Respondent did have actual knowledge of the DEEZER trademark demonstrating the bad faith registration, and disrupts Complainant's business.

The Examiner finds that Complainant has satisfied URS 1.2.6.3 as the Domain Name was registered and is being used in bad faith.

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): DEEZER.DIGITAL 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: Arthur

Surname: Fouré

Date: 2022-05-27