



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

**URS DISPUTE NO. DEB98142**

Determination DEFAULT

**I. PARTIES**

Complainant(s): Deezer (FR)

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

Respondent(s): Withheld for Privacy Purposes, Privacy service provided by Withheld for Privacy ehf (IS)

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

Domain Name(s): DEEZERPLUSPLUS.XYZ

Registry Operator: Xyz.com, LLC

Registrar: Namecheap, Inc.

**III. PROCEDURAL HISTORY**

Complaint submitted: 2023-12-04 12:42

Lock of the domain name(s): 2023-12-07 19:14

Notice of Complaint: 2023-12-08 09:27

Default Date: 2023-12-23 00:00

Notice of Default: 2023-12-26 21:41

Panel Appointed: 2023-12-27 10:07

Default Determination issued: 2023-12-29 11:20

**IV. EXAMINER**

Examiner's Name: Igor Motsnyi

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:**

1. The Complainant states that it was created in 2007 in Paris, France and it is an online music streaming service. The Complainant claims that it currently has 90 million licensed tracks in its library, with over 30,000 radio channels, 100 million playlists, 16 million monthly active users, and 7 million paid subscribers as of January 2019 and its service is available in more than 180 countries and very well-known globally. The Complainant refers to its various trademarks with the “DEEZER” word element as well as to its portfolio of domain names that include “deezer”. The disputed domain name was registered on October 19, 2023. The Complainant refers to previous UDRP decisions and URS determinations and claims the disputed domain name is confusingly similar to its trademarks. In particular, the disputed domain name includes the Complainant’s mark with the addition of a generic/descriptive term “plus” and this does not eliminate confusing similarity.
2. The Complainant states that the Respondent has no legitimate rights or interests in respect of the disputed domain name. No license or permission of any kind has been given by the Complainant to the Respondent to use the Complainant's trademarks. The Respondent is not known under the name “DEEZER”. The Complainant points out that “DEEZER” is not an existing word but an invented term, therefore it is not conceivable to imagine that the Respondent does not know the trademark when he/she registered the disputed domain name.
3. The Complainant indicates that the disputed domain name is used for a website that offers free “DEEZER” premium accounts and is in French language. The Complainant alleges that the Respondent’s intent was and is clearly to obtain commercial benefits from the disputed domain name and consumers’ confusion. Based on the above, the Complainant claims that it is obvious that the Respondent has registered and is using the disputed domain name in bad faith.

## **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 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 was registered on October 19, 2023.

The disputed domain name resolves to a website that seems to offer free “Deezer” premium account and contains Complainant’s logo.

The Complainant relies on the following registered trademarks:

- EU trademark No. 008650079 “DEEZER” (word), filed on October 29, 2009, registered on May 03, 2010 and renewed until October 29, 2029;



- EU trademark No. 015138481 “DEEZER BUSINESS” (word), filed on February 23, 2016, registered on June 13, 2016 and
- EU trademark No. 006891055 “DEEZER” (word + logo), filed on May 06, 2008, registered on December 16, 2009 and renewed until May 06, 2028.

The Complainant provided evidence that its trademarks are in use, namely an SMD and materials from various Internet sites including screenshots of the Complainant’s own website.

## **E. Reasoning:**

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

The Complainant provided proof of ownership of the registered word trademarks “DEEZER” and a trademark with the same word element and proof of use of its trademarks.

The disputed domain name fully incorporates the “DEEZER” trademark of the Complainant with the addition of the word “plus” (twice).

As provided in the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“WIPO Overview 3.0”): *“Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element.”*

The Complainant’s mark is clearly recognizable within the disputed domain name and the descriptive element “plus” does not affect confusing similarity.

The domain zone <.xyz> actually increases confusion as it is related to Complainant’s activity.

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/her rights or legitimate interests.

The Complainant has made a prima facie case and the Respondent failed to respond.

The Respondent is not authorized by the Complainant to use its trademarks in the disputed domain name and the Respondent is not identified at the disputed domain name.

The disputed domain name resolves to a website that claims to offer “free premium account” in relation to the Complainant’s services and contains a logo of the Complainant.

As noted in WIPO Overview 3.0: *“a respondent’s use of a domain name will not be considered “fair” if it falsely suggests affiliation with the trademark owner” and “where a domain name consists of a trademark plus an additional term (at the second- or top-level), panels have*

*largely held that such composition cannot constitute fair use if it effectively impersonates or suggests sponsorship or endorsement by the trademark owner” (see sec. 5 and 5.1).*

The Examiner finds that the disputed domain name falsely suggests affiliation and this is exacerbated by the actual use of the disputed domain name and content of the website (e.g. use of Complainant’s logo) and absence of any other information that explains nature of the website.

Such use does not create legitimate rights or legitimate interests.

Based on the above, the Examiner finds that the Respondent lacks any legitimate right or legitimate interest with respect to the disputed domain name as per the requirements 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 Examiner finds that the Complainant provided clear and convincing evidence of Respondent’s bad faith registration and use of the disputed domain name.

As provided in WIPO Overview 3.0, sec. 3.1: *“bad faith is broadly understood to occur where a respondent takes unfair advantage of or otherwise abuses a complainant’s mark” and the following evidence inter alia indicates bad faith registration and use: (i) actual confusion, (ii) seeking to cause confusion, (iii) the lack of a respondent’s own rights to or legitimate interests in a domain name and (iv) absence of any conceivable good faith use (sec. 3.1.4 of WIPO Overview 3.0).*

The Examiner finds bad faith registration and use of the disputed domain name based on the following:

- date of registration of the disputed domain name and the nature of the disputed domain name – registered many years after registration of the Complainant’s trademarks and incorporating the Complainant’s mark with the addition of a descriptive term “plus” (twice);
- the Respondent is seeking to cause confusion by using the disputed domain name for alleged offering of “free premium accounts” in relation to the Complainant’s services and by using logo of the Complainant;
- the lack of Respondent’s own legitimate rights or legitimate interests in the disputed domain name and absence of any conceivable good faith use under the circumstances of this dispute taking into account evidence provided by the Complainant, in particular information about the Complainant, its trademarks and various publications about the Complainant, its services and screenshots of the website by the disputed domain name and the composition of the disputed domain name.

Based on the above, the Examiner finds that the Respondent has intentionally attempted to attract for commercial gain, Internet users to its websites by creating a likelihood of confusion with the Complainant’s mark as to the source, sponsorship, affiliation, or endorsement of Respondent’s website (see e.g. Determination in URS DISPUTE NO. 7092A080: *“the Respondent reproduces the general appearance of the Complainant’s official website using the Complainant’s trademark throughout the mentioned website without any authorization of the Complainant. It is clear that the Respondent’s purpose is to capitalize on the reputation of the Complainant’s trademark”* and Determination in URS DISPUTE NO. 6281E707: *“the Complainant has provided documentary proof that the Respondent’s website had previously displayed content referencing the Complainant’s trade mark”*).



Therefore, the Examiner finds that the requirements set forth under Paragraph 1.2.6.3. of the URS Procedure have 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): DEEZERPLUSPLUS.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: Igor  
Surname: Motsnyi  
Date: 2023-12-29