



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

**URS DISPUTE NO. F92ADA5E**

Determination DEFAULT

**I. PARTIES**

Complainant(s): Caroll International (FR)  
Complainant's authorized representative: MIIP - MADE IN IP (FR)

Respondent(s): Dynadot Privacy Service, Super Privacy Service LTD c/o Dynadot (US)

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

Domain Name: FR-CAROLL.SHOP  
Registry Operator: GMO Registry, Inc.  
Registrar: Dynadot, LLC

**III. PROCEDURAL HISTORY**

Complaint submitted: 2023-12-05 17:34  
Lock of the domain name(s): 2023-12-08 10:53  
Notice of Complaint: 2023-12-08 20:23  
Default Date: 2023-12-23 00:00  
Notice of Default: 2023-12-26 21:49  
Panel Appointed: 2023-12-27 11:31  
Default Determination issued: 2023-12-28 09:40

**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 claims that it is a famous French clothing brand for women created in 1963 by Raphaël Lévy and Joseph Bigio. The Complainant's goods are sold in more than 500 stores in France and abroad as well as via its website [https://www.caroll.com/fr\\_fr/](https://www.caroll.com/fr_fr/).  
The Complainant cites its "Caroll" trademarks protected in various jurisdictions and provides evidence of use. The Complainant alleges that the disputed domain name is confusingly similar to its trademarks since it features the word mark "CAROLL" in its entirety with the addition of "fr". The "FR" element has no other purpose than mislead consumers and make them believe that the disputed domain name is owned by the Complainant since it is a French company.
2. The Complainant states that the Respondent has no legitimate rights or interests in respect of the disputed domain name. The Respondent has not been authorized by the Complainant to use the "CAROLL" trademark or to register any domain name incorporating the trademark. There is no legal or business relationship between the Complainant and the Respondent. The Respondent has no prior rights such as trademarks or legitimate interests in the disputed domain name as he/she registered the disputed domain name after the Complainant had registered its trademarks. The disputed domain name is used in connection with a fraudulent website which reproduces Complainant's logos, pictures and trademarks and pretends to be a website of the Complainant. In the "About us" section the Respondent reproduced the brand story of another French company and Complainant's competitor, "Grain de Malice". This, in the Complainant's view, also demonstrates the absence of legitimate rights or interests of the Respondent.
3. The Complainant alleges that the Respondent has intentionally intended to attract consumers by using the trademark "CAROLL" in the disputed domain name. The Respondent reproduces the general appearance of the Complainant's official website and claims to offer CAROLL items at bargain prices to attract consumers for possible fraud purposes. The Complainant claims that this indicates "emblematic bad faith use". The fraudulent use of the disputed domain name demonstrates prior awareness and the Respondent employed a privacy service to hide his/her identity.

## **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 November 22, 2023.

The disputed domain name resolves to an inactive pages on the date of this Determination, however the Complainant provided evidence that the disputed domain name was used for hosting a website advertising Complainant's goods and offering Complainant's goods for sale



and contained pictures of the goods, logos and marks of the Complainant and pictures from its official website as well as a message “TRUSTED STORE” in the bottom of every page.

The Complainant relies on the following registered trademarks:

- EU trademark registration No. 009892431 “Caroll” (word), filed on April 13, 2011 and registered on September 16, 2011;
- International Registration under the Madrid system No. 1208979 “Caroll” (word), registered on February 25, 2014 and
- French trademark No. 1233265 “Caroll” (word), filed on April 15, 1983.

The Complainant provided evidence that its trademarks are in use, namely screenshots of its official website and a link to the Complainant’s website.

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

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

The Complainant provided proof of its registered word trademarks “Caroll” and proof of use of its trademarks.

The disputed domain name fully incorporates the trademark of the Complainant with the addition of a hyphen and the “fr” element that can be seen as a geographical element that refers to France.

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 geographical element “fr” does not affect confusing similarity.  
The domain zone <.shop> 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 parties are not related.

According to the provided evidence, the disputed domain name was previously used for a website advertising Complainant's goods and offering them for sale with pictures and logos of the Complainant taken from the Complainant's own website.

The Respondent, therefore, can be potentially considered as an unauthorized reseller and unauthorized resellers and distributors may be making a bona fide offering of goods and services and thus may have a legitimate interest in domain names under certain circumstances as provided by the "Oki Data Test" (see *Oki Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. D2001-0903, <okidataparts.com>) and 2.8.1 of WIPO Overview 3.0.

The Respondent in this case fails to fulfill the "Oki Data Test" requirements, namely the Respondent fails to "***accurately and prominently disclose the registrant's relationship with the trademark holder***". On the contrary, the Respondent by using the "Trusted Store" phrase as well as logos and pictures taken from the Complainant's own website, creates a false impression of affiliation with the Complainant or endorsement by the Complainant.

Based on the provided evidence it is clear that the Respondent attempts to impersonate the Complainant and impersonation is not fair and does not create legitimate right or legitimate interest.

In view of the above circumstances, 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 geographical term referring to Complainant's place of incorporation and business - France;
- the Respondent is seeking to cause confusion by using the disputed domain name for advertising and offering the goods of the Complainant for sale and using logos and pictures from the Complainant's own website and by placing "Trusted Store" at the bottom of webpages;
- 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 "whois data", the screenshots of the Complainant's own website 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 also previous URS determinations, e.g., URS DISPUTE NO. 9A037A5B: "The Respondent reproduced the general appearance of the Complainant's official website and claims to offer CAROLL goods at bargain prices in order to attract the consumers..." and URS DISPUTE NO. FA40B54D: "till recently, the disputed domain name was used to host a website impersonating the Complainant").

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: FR-CAROLL.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**

Name: Igor

Surname: Motsnyi

Date: 2023-12-28