



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

URS DISPUTE NO. FA40B54D

Determination DEFAULT

I. PARTIES

Complainant(s): CATH' AIR (FR)
Complainant's authorized representative: IP TWINS (FR)

Respondent(s): SUMAN THAPA (NP)

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

Domain Name(s): CATHERINEAU.SHOP
Registry Operator: GMO Registry, Inc.
Registrar: Sav.com, LLC

III. PROCEDURAL HISTORY

Complaint submitted: 2022-11-04 07:16
Lock of the domain name(s): 2022-11-11 23:57
Notice of Complaint: 2022-11-14 18:11
Default Date: 2022-11-29 00:00
Notice of Default: 2022-11-29 19:35
Panel Appointed: 2022-11-29 19:37
Default Determination issued: 2022-12-01 07:11

IV. EXAMINER

Examiner's Name: Ankur Raheja

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, active since 1750, is a producer and distributor of bespoke luxury interiors of boats and planes and has an online presence at <catherineau.com>. It owns a number of trademarks for the distinctive term CATHERINEAU, including the European Union, the US, the French, the Canadian and the International registrations, that predate the registration of the disputed domain name. The earliest trademark CATHERINEAU no. 012497822 was applied before EUIPO on 14 January 2014 and registered on 5 July 2014.

The Complainant contends that the disputed 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 Complainant also contends that the Respondent has no legitimate right or interest to the disputed domain name. The Complainant has not authorized the Respondent to register and use the disputed domain name. The Respondent has neither trademark rights in the CATHERINEAU term, nor is known by the disputed domain name.

Finally, the Complainant contends that the disputed domain name was registered and is being used in bad faith. In addition to being identical to the Complainant's rights the disputed domain name was used to resolve to a website impersonating the Complainant.

B. Respondent:

The Respondent did not submit the 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 15 August 2022.

The Complainant has demonstrated that it has registered rights in the word mark CATHERINEAU. The mark is distinctive / arbitrary and a Google search for CATHERINEAU reveals results related to the Complainant only. The disputed domain name contains the mark in its entirety, combined with the new gTLD .shop.

The disputed domain name currently redirects to <google.com>. However, the Complainant annexes historical screenshot of the website associated with the disputed domain name, indicating that it had previously resolved to a website impersonating the Complainant.

E. Reasoning:

According to Paragraph 13 of the URS Rules, the Examiner shall make a Determination of a Complaint in accordance with the URS Procedure, the URS Rules and any rules and principles of law that it deems applicable.



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

For the Complainant to succeed, it must establish that each of the three following conditions under 1.2.6 URS Procedure is satisfied:

- That the disputed domain name is identical or confusingly similar to a word mark;
- That the Registrant has no legitimate right or interest to the disputed domain name;
- That the disputed domain name was registered and is being used in bad faith.

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

The Complainant has registered various trademarks for CATHERINEAU, including the earliest word mark registration with the European Union Intellectual Property Office (EUIPO) since 5 July 2014 under class 6, 18, 19, 20, 24, 37 and 42 covering varied goods and services. The active use of the trademark is evident from the Complainant's official website at <catherineau.com> and a simple Google search.

The disputed domain name contains the Complainant's mark in its entirety. The incorporation of the Complainant's registered mark in the domain name is sufficient to establish identity or confusing similarity for purposes of the URS Procedure. Furthermore, the Complainant's argument in terms of WIPO Case No. D2004-1041: "Arbitrary and fanciful marks are among the strongest varieties of marks and are accorded strong protection against infringement" is upheld.

Besides, it is well-established that the extension in a disputed domain name does not affect a finding of identity or confusing similarity, because it is technically required for the operation of a domain name. The practice of disregarding the TLD in determining identity or confusing similarity is applied irrespective of the particular TLD, including with regard to new gTLDs.

Therefore, 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 disputed domain name contains Complainant's mark in entirety. The Complainant has neither authorized the Respondent to make use of its mark in any manner nor is the Respondent known by the disputed domain name. The disputed domain name currently redirects to <google.com>, however, it had previously resolved to a website impersonating the Complainant.

This is neither an evidence of bonafide offering of goods or services, nor a legitimate non-commercial or fair use of the disputed domain name. The Complainant has met its burden by presenting a prima-facie case in this URS dispute, while the Respondent has provided no Response to the Complaint.

Based on the above, the Examiner finds that the Respondent lacks any rights or legitimate interests 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 disputed domain name is identical to the Complainant's distinctive mark CATHERINEAU and till recently, the disputed domain name was used to host a website impersonating the Complainant. The said conduct of the Respondent demonstrates actual knowledge of and familiarity with Complainant's mark and nature of business.

Further, the Respondent intentionally attempted to attract for commercial gain, Internet users to its web site at the disputed domain name by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, and endorsement of the Respondent's web site.

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): CATHERINEAU.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: Ankur

Surname: Raheja

Date: 2022-12-01