

URS DISPUTE

Dispute number: **12835AFC**
Determination **DEFAULT**

I. PARTIES

Complainant: **PVPRO LTD**
PVPRO LTD PVPRO LTD
Dimostheni Severi Avenue 6, Presidium Building, Office 22, 1080, Nicosia, Cyprus

Complainant's Authorized Repr.: **Theodora Vafeiadou**
Panepistimiou 16, Athens, 106 72, Greece

Respondent: **Taylor Fazen**

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

Domain name: **pvpro.trade**
d5ade55e4671b42d0bfbe7c9b8dca18ef-nsr
193.124.180.23
tucows domains inc. (url: www.opensrs.com)

III. PROCEDURAL HISTORY

Complaint Submitted: 2017-12-12 18:03
Lock of the Domain name(s): 2017-12-14 20:33
Notice of Complaint: 2017-12-15 19:36
Default Date: 2017-12-30 00:01
Notice of Default: 2017-12-30 09:16
Panel Appointed: 2017-12-30 09:17

IV. EXAMINER

Examiner's Name: **Dorota Rzazewska**

The Examiner certifies that he/she has acted independently and impartially and to the best of his/her 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 filed a Response

VI. STANDARD OF REVIEW

Clear and convincing evidence.

VII. DISCUSSIONS AND FINDINGS

A. Complainant

The Complainant asserts that the <pvpro.trade> ('Disputed Domain Name') is identical visually to the Complainant's European Union trademark 'PVPRO' No. 014267025 ('European Union Trademark') filed with the European Union Intellectual Property Office ('EUIPO') on 17 June 2015 for goods and services encompassed in classes: 28, 41, 42 of the Nice Classification and registered on 9 September 2015, i.e. both in verbal and graphic layer.

Furthermore, the Complainant claims he is the sole owner of the <pvpro.com> domain name registered on 16 April 2004, which is being used as an on-line gaming platform, which provides on-line matches and tournaments (matchmaking service) for players of 'Counter Strike: Global Offensive' - a renowned skill based e-sport title and a virtual marketplace for cosmetic, in-game items called 'skins'.

The Respondent, as the Complainant claims, has no rights or legitimate interests on the Disputed Domain Name, as the Respondent registered the Disputed Domain Name on 21 September 2017, which has incorporated the said European Union Trademark in its entirety, whereas no authorization, consent nor license has been granted to the Respondent in this regard whatsoever. Moreover, there is no business relationship between the Complainant and the Respondent.

As to the Disputed Domain Named being registered and/or used in bad faith, the Complainant asserts the Respondent registered the Disputed Domain Name long after registration of <pvpro.com> domain name as well as European Union Trademark. Moreover, The Complainant states that the Respondent clearly must have been aware of well-known <pvpro.com> domain name and the said trademark at the time of registering the Disputed Domain Name and, additionally, the Disputed Domain Name is deemed benefitting from well established recognition worldwide of the pvpro.com website as well as the European Union Trademark.

The Complainant reasons also that the Disputed Domain Name has been registered solely for detention purposes in order to prevent the Complainant from reflecting the European Union Trademark.

Finally, the Complainant evokes the circumstance where an attempt to reach an amicable solution to the dispute at issue was made on 23 October 2017 (a cease and desist letter sent to the Respondent via e-mail), nevertheless it has not been followed by the Respondent's response.

B. Respondent

The Respondent has not filed any 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 absence of a Response, the language of the Determination shall be English, pursuant to paragraph 9(d) URS Rules.

D. Findings of Fact

The Disputed Domain Name <pvpro.trade> was registered on 21 September 2017 by the Respondent and resolves to a website which offers trade services to customers under the name and graphic representation of the 'PVPRO' sign.

The Complainant has demonstrated to be the sole proprietor of the European Union trademark No. 014267025 registered in the EUIPO on 9 September 2015 with priority as of 17 June 2015 in classes: 28, 41 and 42 of the Nice Classification.

The European Union Trademark has been registered for the following goods and services:

28: Skill and action games; Electronic games; Electronic games other than those adapted for use with television receivers only.

41: Provision of on-line entertainment; On-line gaming services; Gaming services for entertainment purposes; Organisation of tournaments; Providing amusement arcade services.

42: Software development, programming and implementation.

Furthermore, the Complainant is the owner of the <pvpro.com> domain name registered on 16 April 2004.

E. Reasoning

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

First and foremost, the issue with respect to whether the trademark indicated as the grounds for the Complaint (the European Union trademark 'PVPRO' No. 014267025) suffices pursuant to relevant URS provisions in order to fulfill criteria derived from the paragraph 1.2.6.1 URS Procedure and paragraph 3(b)(iv) URS Rules, i.e. whether a figurative European Union trademark 'PVPRO' may be considered 'word trademark' under the URS Procedure and the URS Rules shall be examined at the first place.

The Examiner in the case at issue shares prior sound findings with regards to the case No. 369B0FE1 concerning the domain name <dpd.solutions> and determinations cited therein, where it was reasoned that the use of wording 'word mark' set forth in paragraph 1.2.6.1 URS Procedure does not specifically exclude trademarks which are combined of a word and a graphical element, provided the word element is clear as well as sufficiently distinct and separate from the graphical element. Such a consideration meets the Examiner's view and is utterly accepted in the case at issue.

Supporting the abovementioned, it should be underlined that the European Union Trademark in its verbal layer is explicitly indicated both in the EUIPO's registration certificate and the EUIPO's trademarks on-line database, therefore the word tier of the mark 'PVPRO' is not to be questioned.

Identity of the domain name with the Complainant's trademark

Subsequently, given the aforementioned points, a holistic analysis of the Complainant's trademark and the Disputed Domain Name needs to be carried out as to visual, aural (phonetic) and conceptual aspects. Having analyzed the European Union Trademark and the Disputed Domain Name thoroughly and with regard to all three immanent elements of the same, the Examiner concludes the Disputed Domain Name and Complainant's trademark are identical both visually and aurally (phonetically) as with regards to 'PVPRO' element they share the same number and type of letters used therein. Accordingly, the second-level domain (the part before the dot) and the European Union Trademark are pronounced identically. With regards to meaning of the mark 'PVPRO', the Examiner asserts that no specific meaning may be assigned from perspective of the Internet users, therefore the comparison should be limited to visual and phonetic aspects, as indicated above.

The URS and the UDRP Panels usually agree that the TLD (in this case '.trade') is disregarded in determining identity or confusing similarity between of the domain name and the Complainant's mark (vide e.g. section 1.11 of the WIPO Panel Views on Selected UDRP Questions, Third Edition - 'WIPO Jurisprudential Overview 3.0'). The '.trade' suffix of the Disputed Domain Name is of highly descriptive character, particularly given the services provided by the Complainant, i.e. the trade of games' skins/video games' items. Hence, in the case at issue, the element 'trade' has no influence on distinctiveness of the Disputed Domain Name.

Additionally, the analysis of the evidence submitted by the Complainant leads to the conclusion that not only the Disputed Domain Name is identical with the trademark of the Complainant, but also the website to which the Disputed Domain Name resolves unlawfully uses the such trademark both in verbal and figurative layer in a manner and is a copycat version of the Complainant's website, which may give rise to risk of confusion amongst Internet users (e.g. the marks 'PVPRO' are identically located in the top-left corner of the analyzed websites; use of word 'BETA', which accompanies the 'PVPRO' marks in both cases should be minded as well; both websites' design is highly similar with regards to colour of the background, elements used as well as a grey badge with the letter 'V' displayed in the background in both websites; both websites use 'PvPRO' title described in their source code; both websites use similar favicons).

Under the aforesaid circumstances, the Examiner finds that the requirements set forth under Paragraph 1.2.6.1(i) URS

Procedure have been satisfied.

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

As no Response was submitted by the Respondent in the case at issue, the Respondent has failed to justify any potential rights or legitimate interests in the Disputed Domain Name, therefore there is no evidence for the Examiner to analyze whether that Respondent is commonly known by the Disputed Domain Name and/or is somehow entitled to lawfully use the Disputed Domain Name.

Notably, the Complainant has unambiguously stated that the Respondent had not been authorized by the Complainant to use the incorporated European Union trademark, i.e. 'PVPRO', and that there is no business relationship between the two disputing entities.

Under these circumstances, and in the absence of evidence to state otherwise, the Examiner hereby finds that the Respondent does not have rights or legitimate interests with respect to the Disputed Domain Name, pursuant to the requirements set forth under Paragraph 1.2.6.2 URS Procedure.

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

The Disputed Domain Name resolves to website that displays identical and/or similar elements encompassed in the Complainant's website <pvpro.com>, as described under point 1 above. What is more, it has come to the Examiner's attention that the domain name <pvpro.com> and services provided by the Complainant therein are popular amongst the Internet users, what is demonstrated i.e. by the Google search results (top displayed search results in the Google search engine) as well as the Complainant's social media accounts analysis (Facebook account: over 53 000 likes and subscriptions; Twitter account: almost 20 000 observers; YouTube channel with almost 6 500 subscriptions; Instagram account: over 1500 followers).

Moreover, The Disputed Domain Name functions in a convergent manner to the Complainant's website <pvpro.com> with respect to services provided (market space for video games skins/items trade).

The abovementioned leads the Examiner to determination that the Disputed Domain Name was registered primarily for the purpose of disrupting the business of the Complainant. Furthermore, by using the Disputed Domain Name the Respondent intentionally attempted to attract, for commercial gain, the Internet users to the Respondent's website by creating a likelihood of confusion with the Complainant's European Union Trademark as to the source, sponsorship, affiliation or endorsement of the Respondent's website or of the service offered on the Respondent's website operating under the Disputed Domain Name <pvpro.trade>.

This conduct falls squarely under a circumstance enumerated under the URS Procedure, which demonstrate bad faith registration and use by the Registrant, therefore the Examiner finds that the requirements set forth under Paragraph 1.2.6.3 (c) and (d) URS Procedure have been satisfied.

4. Abusive Complaint

The Examiner finds that the Complaint is neither abusive nor contained a deliberate material falsehood.

VIII. DETERMINATION

A. Demonstration of URS elements

After reviewing the entire record of the URS proceeding and the Parties submissions, the Examiner shall determine if the Complainant has or has not demonstrated all three elements of the URS by a standard of clear and convincing evidence

Demonstration of URS elements	Demonstrated
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B. Complaint and remedy

The Examiner shall decide whether to accept or reject the Complaint and, therefore, order the domain name(s) be suspended for the balance of the registration period or be unlocked and returned to the full control of the Registrant

Complaint
Domain Name(s)

[Accepts](#)
[Suspends for the balance of the registration period](#)

C. Abuse of proceeding

The Examiner may find that a Complaint is abusive or contains deliberate material falsehood

Finding of abuse of proceedings [Not finds](#)

Ban from utilization of URS

D. Suspension or Termination

If legal proceedings were initiated by a Party or the Parties prior to or during the URS proceeding, the Examiner may order the suspension or termination of the URS dispute or decide to proceed to the Determination

URS proceeding

E. Publication

Publication [Publish the Determination](#)

SIGNATURE

Name [Dorota](#)
Surname [Rzazewska](#)