

URS DISPUTE

Dispute number: **156CE599**
Determination **DEFAULT**

I. PARTIES

Complainant: Buffalo Boots GmbH
Clara CELLIER
RÃ¼desheimer Str. 51, 65239 Hochheim, GERMANY

Complainant's Authorized Repr.: **INLEX IP EXPERTISE**
Clara CELLIER
5 rue Feydeau, 75002 Paris, France

Respondent: **N.a. N.a.**

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

Domain name: **buffalopro.club**
.club domains, llc
37.72.184.99
godaddy.com, inc.

III. PROCEDURAL HISTORY

Complaint Submitted: 2019-01-30 14:39
Lock of the Domain name(s): 2019-01-31 19:45
Notice of Complaint: 2019-02-01 09:36
Default Date: 2019-02-16 00:01
Notice of Default: 2019-02-16 09:50
Panel Appointed: 2019-02-16 09:57
Default Determination issued: 2019-02-20 20:00

IV. EXAMINER

Examiner's Name: **Jonathan Agmon**

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 owns several French, European and International "Buffalo" trademarks which are widely used in relation to clothing and footwear. The Complainant asserts that its trademark is well-known worldwide for its distinctive style of sneakers that were made popular in the 1990s. These sneakers are sold today as "Buffalo classics".

The Complainant is the owner of the following "Buffalo" trademark registrations:

- International Trademark Buffalo No. 669747 registered on December 7, 1996
- International Figurative Trademark Buffalo No. 717749 registered on July 1, 1999
- International Figurative Trademark Buffalo No. 1234652 registered on October 22, 2014

The Complainant asserts the following regarding the Respondent:

1. The registered domain names are identical or confusingly similar to a word or mark [URS 1.2.6.1]: for which the Complainant holds several international registrations and that are in current use.
2. Registrant has no legitimate right or interest to the domain names [URS 1.2.6.2]
3. The domain names were registered and is being used in bad faith [URS 1.2.6.3]

B. Respondent

The Respondent appears to be a private registrant.

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

D. Findings of Fact

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.

[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 and 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 is the owner of several international trademark registrations for "Buffalo".

The domain name <buffalopro.club> includes the Complainant's mark in its entirety, together with the word "pro" and the gTLD ".club". The addition of the word "pro", denoting the word "professional" does not prevent the finding of confusing similarities under the first element.

The Complainant has satisfied URS 1.2.6.1 as the domain names are confusingly similar to the Complainant's registered trademarks.

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

There is no evidence that the Respondent is known by the domain name.

The Complainant did not authorize the Respondent to use its "Buffalo" mark.

The Complainant has met its burden and the Respondent provided no response to the Complaint.

The Complainant has satisfied URS 1.2.6.2 as the Respondent has no legitimate rights or interest to the domain names.

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

A non-exclusive list of circumstances that demonstrate bad faith registration and use by the Registrant include:

- a. Registrant has registered or acquired the domain name primarily for the purpose of selling, renting or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of documented out-of-pocket costs directly related to the domain name; or
- b. Registrant has registered the domain name in order to prevent the trademark holder or service mark from reflecting the mark in a corresponding domain name, provided that Registrant has engaged in a pattern of such conduct; or
- c. Registrant registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- d. By using the domain name Registrant has intentionally attempted to attract for commercial gain, Internet users to Registrant's web site or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of Registrant's web site or location or of a product or service on that web site or location.

The Complainant has provided evidence of the Respondent is selling what appears to be counterfeit goods at a significantly lower price on its website under the disputed domain names. The Respondent is also using the Complainant's figurative trademarks to promote the sale of what appears to be counterfeit goods. The Respondent is also posing as the Complainant. In so doing, the Respondent is disrupting the Complainant's business and intentionally attempting to attract Internet users to its websites for commercial gain by creating a likelihood of confusion with the Complainant's "Buffalo" mark.

The Complainant has therefore satisfied URS 1.2.6.3(c) and (d) as the Respondent registered the domain names and is using them 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

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

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 [Accepts](#)
Domain Name(s) [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 [Jonathan](#)
Surname [Agmon](#)