

URS DISPUTE

Dispute number: **376A5431**
Determination **DEFAULT**

I. PARTIES

Complainant: **EUROSPORT**

3 rue Gaston et RenÃ© Caudron- 92798 Issy Les Moulineaux- FRANCE

Complainant's Authorized Repr.: **INLEX IP EXPERTISE**
Karine MAMOU
5 rue Feydeau- 75002 Paris- FRANCE

Respondent: **WhoisGuard, Inc.**

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

Domain name: **eurosport.fun**
d100816104-cnrc
162.255.119.248
namecheap

III. PROCEDURAL HISTORY

Complaint Submitted: 2019-10-10 17:44
Lock of the Domain name(s): 2019-10-14 14:39
Notice of Complaint: 2019-10-14 20:49
Default Date: 2019-10-29 00:01
Notice of Default: 2019-10-29 10:21
Panel Appointed: 2019-10-29 10:32
Default Determination issued: 2019-10-29 15:00

IV. EXAMINER

Examiner's Name: **Rodolfo Carlos Rivas Rea**

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

1. <eurosport.fun> reproduces the Complainant trademark "EUROSPORT" and the addition of the gTLD .fun, which for the purposes of this matter is irrelevant. The Complainant is widely known by the name EUROSPORT for its Pan-European television sports network channel. It should thus be emphasized that the denomination "EUROSPORT" is highly distinctive due the intensive use it has been put through.

Finally, as mentioned in a previous URS Determination (URS DISPUTE NO.: EDCE19D5), the Complainant's "EUROSPORT" trademarks are highly distinctive and well-known. They have been a target of cybersquatters before and well - known nature of this trademark is confirmed by previous panels.

<eurosport.fun> is thus identical or at least highly similar to the prior trademarks owned by the Complainant on "EUROSPORT".

2. The Respondent has no rights nor legitimate interests in respect of <eurosport.fun>.

This disputed domain name was registered anonymously (Registrant Organization: WhoisGuard, Inc.). Consequently, it is only required to make out a prima facie case that the Respondent lacks rights or legitimate interests. The Respondent may then come forward with evidence demonstrating his rights or legitimate interests.

The Respondent has not been authorized by the Complainant to use the name EUROSPORT or to register <eurosport.fun>. There is no business relationship between them.

The content of the associated website does not indicate that: (a) the name of the Respondent is composed of "EUROSPORT" or that the Respondent is commonly known under that name; (b) the disputed domain name is linked to a registered company named "EUROSPORT"; (c) the Respondent has any rights on "EUROSPORT".

3. The disputed domain name was registered and is being used in bad faith.

The Complainant's Pan-European television sport network channel devoted to sports is very well-known. It was first launched in 1989. Today, the network and its channels are available all around the world:

a. Eurosport 1: 71 countries in 21 languages (Europe and Asia-Pacific), broadcasted in 158 million homes; <http://corporate.eurosport.com/our-brands/eurosport/>

b. Eurosport 2: 55 countries in 19 languages, broadcasted in 68 million homes; <http://corporate.eurosport.com/our-brands/eurosport-2/>

c. <eurosport.com>: Europe's most visited online sports destination with 16 websites worldwide in 10 languages. Average of 14 million unique users per month in 2015 in Europe (up to 2.4m users per day for the mobile application - available in 10 languages and downloaded 16 million times); <http://corporate.eurosport.com/our-brands/eurosport-com/> "EUROSPORT" is immediately associated with the Complainant's brand. It is exceedingly unlikely that the Respondent was unaware of the existence of these prior rights at the time of <eurosport.fun>'s registration.

Moreover, <eurosport.fun> is neither used in connection with a bona fide offering goods or services nor constitutes a legitimate non-commercial fair use. In fact, the website associated with the disputed domain name is inactive (message from the registrar Namecheap "This domain was recently registered at Namecheap").

4. This registration disturbs the Complainant's business

The Internet users will be led to believe that the website to which <eurosport.fun> leads, is operated by the Complainant's organization. The Complainant's customers may thus incorrectly believe that the Complainant's website, is not functioning. This perception will be harmful for the activities and for the image of the Complainant.

B. Respondent

Respondent did not submit a formal Response in conformity with paragraph 5 of URS Policy and Rules, consequently, MFSD sent the Notice of Default to the parties. Subsequently, the Respondent contacted MFSD forwarding a communication sent directly the Complainant's representative.

In such communication, the Respondent stated that it was happy to sell the domain to Eurosport with a starting price of \$10,000. The Respondent went on to say that it did own the domain but did not plan to use it or redirect it and "If

Eurosport really want the domain they will just have to come to a simple agreement".

In its second communication to MFSD, the Respondent stated that it was prepared to give up the domain to Eurosport. The Respondent went on to say that it cannot be bothered to go through a legal proceeding.

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

Although the Respondent did not submit a formal Response in time, the Examiner will consider the brief communications submitted by the Respondent in the evaluation of the facts and evidence.

D. Findings of Fact

The Complainant is a French company, registered since 1992 under the name EUROSPORT.

The disputed domain name was created on April 18, 2019.

The Complainant owns several trademarks EUROSPORT and notably:

1. the French Trademark Registration "EUROSPORT" No. 99809801, filed on August 30th, 1999 in classes 9, 14, 16, 25, 28, 35, 38, 41 and 42;
2. the International Trademark Registration "EUROSPORT" No. 732747, registered on February 24th, 2000 in classes 9, 14, 16, 25, 28, 35, 38, 41 and 42 in more than 30 countries;
3. the European Union Trademark Registration "EUROSPORT" No. 014185599, filed on May 29th, 2015 and registered on October 2nd, 2015 in class 12.

The Complainant also owns the following domain names:

- * <eurosport.com>, registered on December 16th, 1997;
- * <eurosport.it>, registered on March 11th, 1998;
- * <eurosport.fr>, registered on October 16th, 2006.

These trademarks and domain names were filed and registered prior to the disputed domain name.

E. Reasoning

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

The Complainant provided evidence on record of various word mark registrations for "EUROSPORT", with the earliest registration dating from 1999, and the latest one from 2015. This, along with the evidence on record show that the word mark is in use, and well-known. Having established the existence of a word mark, we must now turn to the disputed domain name, which as alleged by the Complainant, reproduces the word mark "EUROSPORT" in its totality, with the addition of the .FUN gTLD.

It is the view of the Examiner that the disputed domain name indeed reproduces the totality of the word mark "EUROSPORT", and as such, it is inevitable to find that the disputed domain name is confusingly similar to the word mark. For the purposes of this analysis, the gTLD has little bearing in the analysis necessary for the first requirement under the URS.

Based on the above and the evidence on record, the Examiner finds that the requirements set forth under Paragraph 1.2.6 (i) of the URS have been satisfied.

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

The Complainant asserts that it has not authorized the Respondent to use the word mark "EUROSPORT". Furthermore, the Complainant also states that there is no business relationship between them. Additionally, the evidence on record shows no evidence that Respondent is commonly known by the disputed domain name.

The Respondent, even though it did not provide a formal Response, has failed to justify any rights or legitimate interests in the disputed domain name. Notwithstanding this, evaluating the two brief communications by the Respondent, there are no assertions nor evidence that would substantiate rights or legitimate interests in the disputed

domain name. If anything, there appears to be indication that the Respondent purposely registered the disputed domain name being fully aware of the existence of the Complainant and its word marks.

The Examiner, reviewing the evidence on record and taking into account the broader context of the case, namely, the strict reproduction of the word mark in the disputed domain name and the inactive website, it is apparent that the Respondent not only did not have any right or legitimate interest in the disputed domain name, but was instead intending to benefit from the Complainant's reputation, through an offer to sell the disputed domain name. Please see the third element below for a more complete analysis of this. Finally, there is no other available evidence on record that would otherwise allow the Panel to find any rights or legitimate interests for the Respondent in the disputed domain name.

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 (ii) of the URS.

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

The disputed domain name was created on April 18, 2019, and as per evidence on record it appears that it has not been used since. The Respondent seems to have been aware of the registration and the use of the Complainant's trademarks before the registration of the disputed domain name, since it includes the totality of the well-known word mark in the disputed domain name. This awareness of the word mark seems to be confirmed by the two brief communications by the Respondent. Additionally, the Respondent fails to provide any evidence of actual or contemplated good-faith use, which coupled with the implausibility of any good faith use to which the disputed domain name may be put, is consistent with a finding of bad faith due to "passive holding", as per paragraph 3.3 of WIPO Overview 3.0.

The Examiner notes that the evidential burden for complaints under the URS is significantly higher (clear and convincing evidence) than under the UDRP (balance of probabilities), nevertheless, WIPO Overview 3.0 remains informative to this matter since the facts and evidence on record remain consistent with the thrust of conducts described under Paragraph 1.2.6.3 of the URS.

Additionally, the Respondent, according to its brief communication, appears to have registered the disputed domain name with the purpose of selling it to the Complainant for valuable consideration in excess of documented out-of-pocket costs directly related to the domain name. This conduct falls squarely within the non-exclusive list of circumstances that demonstrate bad faith registration and use by the Registrant under Paragraph 1.2.6.3.a. of the URS.

Based on the above and the evidence on record, the Examiner finds that the disputed domain name was registered and has been used by the Respondent in bad faith, as per the requirements set forth under Paragraph 1.2.6 (ii) of the URS.

4. Abusive Complaint

The Examiner finds that the complaint is not abusive and it did not contain deliberate 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 [Rodolfo Carlos](#)
Surname [RIVAS REA](#)